

***United States Court of Appeals
for the Second Circuit***



**APPELLANT'S
APPENDIX**

75-1135B

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

THE UNITED STATES OF AMERICA,
Plaintiff-Appellee,

vs.

ENID SALTER, a/k/a AARON
SALTER,

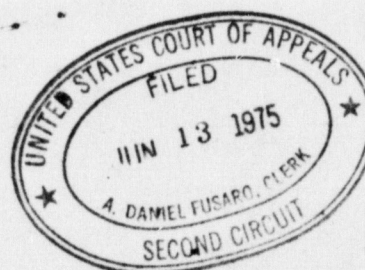
Defendant-Appellant.

APPELLANT'S APPENDIX

Docket No. 75-1135

Cr. No. 73-302

JOHN H. NAPIER
Attorney for Appellant
Office and Post Office Address
620 Liberty Bank Building
Buffalo, New York 14202
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PAGINATION AS IN ORIGINAL COPY

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CRIMINAL DOCKET
UNITED STATES DISTRICT COURT

1a

JOHN G. HENDERSON

D. C. Form No. 100 Rev.

John T. Curran

CR-1973-302

TITLE OF CASE	ATTORNEYS
THE UNITED STATES	For U.S.:
vs.	Theodore Burns,
ENID SALTER, aka AARON SALTER	Assistant U.S. Attorney
	502 U.S. Courthouse
	Buffalo, New York 14202
did unlawfully bring into the U.S. by means of an automobile, an alien not lawfully entitled to enter or reside within the U.S. (Cts. 1,2); in vio. of Sect. 1324(a)(1); Title 8, U.S.C.; did wilfully & knowingly encourage the entry into the U.S., an alien not lawfully entitled to enter or reside within the U.S. (Cts. 3,4), in violation of Sect. 1324(a)(4), Title 8, U.S.C.	For Defendant:
	John H. Napier, Esq.
	John H. Napier, Esq.
	(assigned)
	Liberty Bank Bldg.
	Buffalo, New York 14202

Offense: 7/29/73

4 Cts.

STATISTICAL RECORD	COSTS	DATE	NAME OR RECEIPT NO.	REC.	DISB.
J.S. 2 mailed	Clerk				
J.S. 3 mailed	Marshal				
Violation	Docket fee				
Title 8					
Sec. 1324(a)(1), (a)(4)					

PROCEEDINGS

DATE	PROCEEDINGS
Sept. 5	Filed Indictment
Sept. 5	J.S. 2 made
Aug. 16	Filed Magistrate's docket sheets # 73, case # 197, 198, with complaints and \$2,500 property bond- Carol Salter - surety.
Sept. 17	Deft. being duly arraigned enters a plea of not guilty, bail of \$2500 continued, motions returnable 10/1/1973.
Sept. 24	Filed Ct. Steno's minutes of 9/17/1973
Oct. 1	Deft. advised the Court he was unable to retain Atty., Kallett, and deft. will furnish a financial affidavit to the Court for consideration of appointment of counsel; Deft. continued on bail...
Oct. 2	Filed Cy. 5 of CJA-20 - Order appointing John H. Napier, Esq., as counsel for Deft.--HENDERSON, J.; Cy. to the Adm. office, Orig. ret. to counsel for submission of voucher.
Oct. 2	Filed Ct. Stenographer's minutes of 10/1/1973
Oct. 9	Filed Cy. 5 of CJA-20 - Order appointing John H. Napier, Esq., as counsel for the Deft.--HENDERSON, J.; cy. to the Adm. office, Orig. ret. to counsel for submission of voucher.
Oct. 15	Adj. to 10/29/1973

DATE 1973	PROCEEDINGS
Oct. 25	Filed Cy. 5 of CJA-21 - Authorization for transcript--HENDERSON, J.
Oct. 29	Filed Stenographer's transcript of proceedings taken before the Hon. Edmund F. Maxwell, Magistrate, taken on 8/13/1973, before Anthony J. Cuvillo, Notary Public
Oct. 29	Deft. did not appear; the Court instructed the Govt. to determine if non-appearance was for a good reason as the Court would then set two weeks for motions ret. by Deft.
Oct. 31	Filed Cy. 2- of CJA-21- Voucher for Transcript - Jack W. Hunt & Associates in the amt. of \$51.20; Orig. to the Adm. office for payment.
Nov. 12	Adj. to 11/19/1973
Nov. 19	Adj. to 12/3/1973
Nov. 30	Filed Govt's motion to move action for trial
Dec. 3	Adj. to 12/17/1973
Dec. 17	Adj. to 1/2/1974
Dec. 20	Filed Magistrate's docket, waiver of counsel, waiver of preliminary hearing from the U.S. Magistrate for the Dist. of New Jersey, New York, N.Y.
1974	
Jan. 2	Adj. to 1/7/1974
Jan. 4	Filed Deft's notice of motion for Discovery and Inspection; suppression Production; Bill of Particulars; etc., ret. 1/7/1973
Jan. 7	Filed Govt's response to pre-trial motion by Deft. Salter
Jan. 7	Adj. to 1/14/1974
Jan. 14	Adj. to 1/15/1974-(suppression hearing)
Jan. 15	The Court requests memoranda from counsel by 1/18/1974 and further ordered the Govt. to respond to Deft's motion for discovery concerning computer records on entry into country by Deft.
Mar. 27	Filed Ct. Steno's transcript of proceedings held before Judge Henderson, on January 15, 1974
May 6	Return date for briefs - submitted
Aug. 8	Filed decision and order that deft's motion to suppress certain evidence obtained by the Govt at the time of his arrest--the money itself is suppressed, however, the court will defer ruling upon the conversation between agent and deft until the time of trial; the deft's motion for a bill of particulars in this case is granted; in deft motion for discovery, the govt is ordered to conduct an inquiry to determine whether computer in question contains the information that the deft seeks and, if so, the Govt is ordered to produce it. CURTIN, J.
Sept. 6	Filed Govt's notice of appeal from the Suppression Order suppressing the Canadian money seized from deft, with affidavit stating that appeal was not taken for the purpose of delay; cy. to deft's atty.; and the CCA, with statement of docket entries.
Sept. 30	Filed order setting case for trial on calendar of Hon. Lloyd F. MacMahon
Oct. 15	Filed Deft's notice of motion for a stay of trial, etc., ret. Mag. 10/18/74
Oct. 17	Filed Govt's affidavit requesting the court's denial of deft's request for a delay in date of trial.
Oct. 17	Filed Govt's response to motion for discovery
Oct. 17	Filed Govt's Bill of Particulars
Oct. 31	Filed Stipulation and order dismissing Govt's appeal, CURTIN, J. Cy. to CCA, AUSA Burns, and defense atty. Napier
Oct. 18	Argument heard in Magistrate's chambers. Motion for continuance granted
Nov. 18	Status report. Case reported as ready for trial.
1975	
Jan. 22	Filed subpoena - Myrtle Hurst, served 1/21/75

DATE 1975	PROCEEDINGS	CLERK'S FEES	
		PLAINTIFF	DEFENDANT
Jan 24	Filed Subpoena--Mrytle Hurst, served 1/23/75		
Jan. 28	Govt. moves case ready for trial, before Judge Curtin, at Buffalo, N.Y., whereupon the jury is duly empanelled-- Trial is adj. to tomorrow morning at 10:00 a.m.		
Jan 29	Trial continues from yesterday with the same appearances and jury. Deft. moves for a dismissal of the indictment. Motion denied. Trial is adj. until tomorrow morning at 10:00 am		
Jan 30	Trial continues from yesterday with the same appearances and jury. Deft renews his motions made at the conclusion of the Govt's case. Motion denied. Trial is adj. until tomorrow morning at 10:00 a.m.		
Jan 31	Trial continues from yesterday with the same appearances and jury. After listening to a charge from his honor, the Judge, the jury retires to deliberate a verdict. After listening to further instructions, the jury further deliberates and returns with the following verdict: Count 1--Disagreement; Count 2--Disagreement; Count 3--Guilty; Count 4--Guilty. Court will set a sentence date. Deft. continued on bail.		
Ar. 4	Filed Ct. Stenographer's transcript of excerpts of trial held on January 29 and January 30, 1975.		
Ar. 31	Filed Cy. 2 and 5 of CJA-21 - Authorization and voucher for transcript in the amt. of \$36.00; Orig. to the Adm. office for payment.		
Ar. 31	On motion of Govt, deft is sentenced as follows: On count 3, deft is remanded to the custody of the Atty. Gen. for a period of 90 days and is fined one thousand dollars. On count 4 deft is remanded to the custody of the Atty. Gen. for a period of 90 days and is fined one thousand dollars. Both sentences are to run concurrently. The total fine is in the amount of one thousand dollars. On motion of the Govt. counts 1 and 2 of the indictment are dismissed. Bail is to continue during pendency of appeal CURTIN, J.		
Ar. 31	J.S. 3 made		
Apr. 3	Filed Deft's notice of appeal		
Apr. 4	Copy of notice of appeal mailed to CCA with statement of docket entries, U.S. Atty., deft., and deft's atty.		
Apr. 4	Filed Judgment and commitment. Commitment issued		
Ar. 7	Filed cy. 5 of CJA 21--authorization for transcript of trial. Cy. 4 sent to Adm. office		
Ar. 15	Filed cy. of scheduling order from the CCA - record be docketed on or before 5/8/75 to the Court of appeals		
May 2	Filed Ct. Stenographer's transcript of trial (3 Volumes)		
May 2	Filed Ct. Stenographer's transcript of sentence - 3/31/1975		
May 2	Filed cy. 2 of CJA 21--voucher for transcript of trial in the amt. of \$565.00. Orig. to Adm office for payment.		

INDICTMENT

In the District Court of the United States

For the Western District of New York

CR-1973-302

THE UNITED STATES OF AMERICA

-vs-

ENID SALTER, A/K/A AARON SALTER

MARCH 1973 SESSION ~~XXXXXX~~
(Impaneled July 9, 1973)

No.

Viol. Title 8, U.S.C.,
§1324(a)(1), (4)

COUNT I

The Grand Jury Charges:

That on or about the 29th day of July, 1973, at the Peace Bridge, Buffalo, New York, in the Western District of New York, the defendant, ENID SALTER, A/K/A AARON SALTER, did unlawfully bring into the United States by means of an automobile, Shirley Cecila Paul, an alien not lawfully entitled to enter or reside within the United States; in violation of Title 8, United States Code, §1324(a)(1).

COUNT II

The Grand Jury further charges:

That on or about the 29th day of July, 1973, at the Peace Bridge, Buffalo, New York, in the Western District of New York, the defendant, ENID SALTER, A/K/A AARON SALTER, did unlawfully bring into the United States by means of an automobile, Myrtle Ioni Hurst, an alien not lawfully entitled to enter or reside within the United States; in violation of Title 8, United States Code, §1324(a)(1).

4 ad

-2-

COUNT III

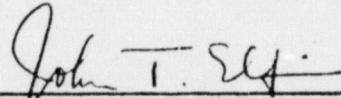
The Grand Jury further charges:

That on or about the 29th day of July, 1973, at the Peace Bridge, Buffalo, New York, in the Western District of New York, the defendant, ENID SALTER, A/K/A AARON SALTER, did wilfully and knowingly encourage the entry into the United States of Shirley Cecilia Paul, an alien not lawfully entitled to enter or reside within the United States; in violation of Title 8, United States Code, §1324(a)(4).

COUNT IV

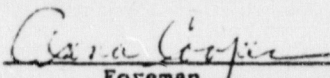
The Grand Jury further charges:

That on or about the 29th day of July, 1973, at the Peace Bridge, Buffalo, New York, in the Western District of New York, the defendant, ENID SALTER, A/K/A AARON SALTER, did wilfully and knowingly encourage the entry into the United States of Myrtle Ioni Hurst, an alien not lawfully entitled to enter or reside within the United States; in violation of Title 8, United States Code, §1324(a)(4).



JOHN T. ELFVIN
United States Attorney

A TRUE BILL:



Foreman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff

vs.

Cr-1973-302

ENID SALTER, a/k/a AARON SALTER,

Defendant

NOTICE OF APPEAL PREPARED AND FILED BY THE
CLERK ON ORDER OF JUDGE JOHN T. CURTIN

Notice is hereby given that ENID SALTER, DEFENDANT
above-named, hereby appeals to the United States Court
of Appeals for the Second Circuit from the final Judgment
entered in this action on March 31, 1975.

ENID SALTER

John K. Adams, Clerk

By: Alice Manning
Alice Manning, Deputy Clerk

Dated: April 3, 1975

United States District Court for

United States of America vs.

DEFENDANT

ENID SALTER a/k/a AARON SALTER

WESTERN DISTRICT OF NEW YORK

DOCKET NO. Cr-1973-302

JUDGMENT AND PROBATION/COMMITMENT ORDER

In the presence of the attorney for the government
the defendant appeared in person on this date

MONTH	DAY	YEAR
March	31	1975

COUNSEL

☐ WITHOUT COUNSEL

However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

☒ WITH COUNSEL

John Napier, Esq.

(Name of counsel)

PLEA

☐ GUILTY, and the court being satisfied that
there is a factual basis for the plea,☐ NOLO CONTENDERE,☐ NOT GUILTY

There being a ~~XXXXXX~~ verdict of

☐ NOT GUILTY. Defendant is discharged

☒ GUILTY.

FINDING &
JUDGMENT

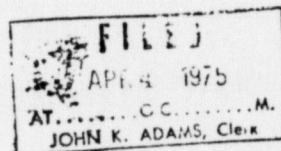
Defendant has been convicted as charged of the offense(s) of wilfully and knowingly encouraging
the entry in to the United States, of an alien not lawfully
entitled to enter or reside within the United States, in violation
of Section 1324(a)(4), Title 8, U.S.C. (Cts. 3 & 4)

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary
was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is
hereby ~~XX~~ sentenced
as follows:

SENTENCE
OR
PROBATION
ORDER

On Count Three, defendant is remanded to the custody of the
Attorney General for a period of Ninety (90) Days and is fined
One Thousand Dollars (\$1,000.00). On Count Four, defendant
is remanded to the custody of the Attorney General for a
period of Ninety (90) Days and is fined One Thousand Dollars
(\$1,000.00). Both sentences are to run concurrently. The
total fine is in the amount of One Thousand Dollars.

Counts One and Two are hereby dismissed.

SPECIAL
CONDITIONS
OF
PROBATIONADDITIONAL
CONDITIONS
OF
PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the
reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at
any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke
probation for a violation occurring during the probation period.

The court orders commitment to the custody of the Attorney General and recommends,

COMMITMENT
RECOMMEN-
DATION

It is ordered that the Clerk deliver
a certified copy of this judgment
and commitment to the U.S. Mar-
shal or other qualified officer.

SIGNED BY

☒ U.S. District Judge☐ U.S. Magistrate

JOHN T. CURTIN, U.S. District Judge

Date March 31, 1975

M Y R T L E H U R S T (48 Rockaway Parkway, Brooklyn, New

1 York), a witness called by and in behalf of the Government,
2 having been first duly sworn, was examined and testified as
follows:

3 DIRECT EXAMINATION BY MR. BURNS:

4 Q Miss Hurst, will you please tell us your full name?

5 A Myrtle Ioni Hurst.

6 THE COURT: How do you spell your middle
7 name?

8 THE WITNESS: I-o-n-i.

9 THE COURT: Is it Miss or Mrs.?

10 THE WITNESS: Miss.

11 THE COURT: Miss Hurst, can you move the chair
12 up, please, and sit a little closer to
13 the microphone and speak up; be sure
14 that all the jury members can hear what
15 you say.

16
17 BY MR. BURNS:

18 Q Miss Hurst, where are you presently residing?

19 A In Brooklyn.

20 Q And are you working at any place now?

21 A Yes.

22 Q Where?

23 A Montclair, New Jersey.

24 Q Montclair, New Jersey?

25 A Yes.

8a

1 Q What type of work are you doing there?

2 A Housework.

3 Q Miss Hurst, where were you born?

4 A Jamaica.

5 Q And when were you born in Jamaica?

6 A 1930, 8th of May.

7 Q Do you know where your parents were born?

8 A Saint Ann's, Jamaica.

9 Q Also in Jamaica?

10 A Yes.

11 Q And of what country are you a citizen?

12 A Jamaica.

13 Q Have you always been a citizen of Jamaica?

14 A Yes.

15 Q Miss Hurst, have you ever been in Toronto, Ontario,
16 Canada?

17 A Yes.

18 Q When did you go there?

19 A On the 6th of March, 1973.

20 Q How did you get to Toronto?

21 A A friend of mine send me invitation to spend some time
22 with her.

23 THE COURT:

Miss Hurst, move your chair up
again, please, closer. You have to
be sure the people that must hear you

1 are the jurors.

2 THE WITNESS: Yes.

3 THE COURT: So you keep your attention upon
4 when a question is asked and you give
5 an answer, you look at the jurors and
6 make sure that they can hear what you
7 say.

8
9 BY MR. BURNS:

10 Q Miss Hurst, how did you get to Toronto from Jamaica?

11 A By plane.

12 Q Did you travel from Jamaica?

13 A Yes.

14 Q Directly to Toronto?

15 A Yes.

16 Q Do you have a passport from any country?

17 A Jamaica.

18 Q Miss Hurst, I should give you what has been marked as
19 Government Exhibit 1 for identification. Would you look
20 at it and identify it, if you can?

21 A It is mine.

22 Q This is your passport?

23 A Yes.

24 Q Where did you get the passport?

25 A In Jamaica.

10a

1 Q Now, on what date did you say you arrived in Toronto?

2 A The 6th of March, 1973.

3 Q I ask you to look at Page 7 of your passport?

4 A Yes.

5 Q Was there any indication on Page 7 about your arrival
6 in Canada?

7 A Yes. It was stamped at the airport.

8 Q How long did you stay in Toronto?

9 A From March until July.

10 Q Until July of 1973?

11 A Yes.

12 Q And were you living all that while in Toronto?

13 A Yes.

14 Q With whom were you living?

15 A Friends.

16 Q And did you ever leave Toronto or leave Canada and
17 enter the United States?

18 A Yes.

19 Q When did you do that?

20 A On the 29th of July.

21 Q Before leaving Toronto, did you speak to anybody regarding
22 your desire to leave Toronto and to enter the United
23 States?

24 MR. NAPIER:

I object to that, your Honor.

25 There is no indication that is within

11a

1 the company of my client.

2 THE COURT:

I will sustain the objection, Mr.
3 Burns, because this seems to open up
4 the door to conversations with any
5 person which is certainly not admissible.

6 BY MR. BURNS:

7 Q Miss Hurst, did you enter the United States, - well,
8 strike that. How did you enter the United States?

9 A A man took me in his car.

10 Q Do you see that man - -

11 A I paid a man to take me here.

12 Q Pardon me?

13 A I paid a man to take me here.

14 Q Do you see that man in the courtroom today?

15 A Yes.

16 Q Would you point him out, please?

17 A That man over there at the table.

18 Q Let the record, - well, which man at the table?

19 A The one in the plaid.

20 MR. BURNS: Let the record reflect that the
21 witness identified the defendant.

22 THE COURT: The one in the plaid jacket and
23 to your right?

24 THE WITNESS: Yes.

25 THE COURT: All right. That is Mr. Salter?

12a

1 THE WITNESS: Yes.

2 THE COURT: Go ahead.

3

4 BY MR. BURNS:

5 Q Miss Hurst, when did you meet Mr. Salter?

6 A On the 29th of July.

7 Q Do you recall what day of the week that was?

8 A It was a Sunday morning.

9 Q Where did you meet him?

10 A I met him on the street with some friends that I knew

11 before.

12 Q What street was this?

13 A I don't remember right now.

14 Q Do you remember what city it was or what area?

15 A In Toronto.

16 Q How did you meet him?

17 A I met him with three friends that I knew before. The

18 four of them was talking.

19 Q Were you with these three other friends?

20 A No. I was going to the store.

21 Q Was Mr. Salter with these three other friends?

22 A Yes.

23 Q How did you meet him?

24 A One of the fellows stop me and stop and introduce him

25 to me.

13a

1 Q This was during the morning of July 29th?

2 A The morning, yes.

3 Q What conversation did you have with Mr. Salter?

4 A Well, after they introduce me to him, the five of us
5 was talking and they say he is from the United States
6 and I don't remember about the conversation. It was a
7 long time, but - -

8 MR. NAPIER: Then I object beyond that, your
9 Honor.

10 THE COURT: All right. Why don't you ask the
11 next question, Mr. Burns.

12
13 BY MR. BURNS:

14 Q Did you have a conversation with Mr. Salter about the
15 United States?

16 A Yes.

17 Q And what was that? Do you recall some of the details
18 of that conversation regarding the United States?

19 A One of the fellows said he is from the United States
20 and he come - -

21 MR. NAPIER: Your Honor, I object to that as
22 being non-responsive.

23 THE COURT: I will strike it as not responsive.
24 The question was, Miss Hurst, did you
25 have conversation with Mr. Salter.

14a

1 THE WITNESS: Yes.

2 THE COURT: You did?

3 THE WITNESS: Yes.

4 THE COURT: You tell us what Mr. Salter said,
5 please.

6 THE WITNESS: He said he would take me to the
7 United States for \$600. I told him I
8 didn't have \$600. I had only \$250.
9 He said he would take the \$250 and
10 when I come to the United States I can
11 send the rest and pay him.

12 THE COURT: Excuse me. Can we back up a
13 minute? He said he would take you to
14 the United States for \$600. You said
15 you did not have it?

16 THE WITNESS: Right.

17 THE COURT: What was said after that?

18 THE WITNESS: He said he would take the \$250 and
19 when I come to the United States I
20 could pay him the rest.

21 THE COURT: Go ahead, Mr. Burns.

22 BY MR. BURNS:

23 Q Did you have any more conversation with Mr. Salter at
24 that point regarding coming into the United States?
25 A No. He only told me that I should go home and get

1 ready and he would come and pick me up.

2 Q Did he tell you when he would come and pick you up?

3 A No. He said he was going for the other young lady.

4 MR. NAPIER: I am sorry. I didn't hear.

5 THE WITNESS: He said he was going for the other
6 young lady and as soon as he picked
7 her up, he would come for me.

8
9 BY MR. BURNS:

10 Q And did he say anything more about the arrangements for
11 traveling to the United States?

12 A He only said I shouldn't bring no clothes or nothing.

13 Q He said you shouldn't bring any clothes with you?

14 A No.

15 Q What did you do after this conversation with Mr. Salter?

16 A Well, I left and went home and I got ready and he came
17 for me sometime before 12:00.

18 Q Sometime before 12:00 noon?

19 A Yes.

20 Q Was anyone else with him when he arrived?

21 A Another fellow was in the car and the young lady was in
22 the back seat.

23 Q Do you recall what kind of an automobile this was?

24 A I don't know the make, but it was a blue car.

25 Q Did Mr. Salter come to your door?

1 A I don't know it was who ring the bell, but when the bell
2 rung, I know he come for me and so I just come out and
3 he was already in the car. I don't know who it was
4 ring the bell.

5 Q Was there someone at the door?

6 A No.

7 Q When you answered it?

8 A No.

9 Q Someone rang the bell and you - -

10 A And I knew it was him, yes, so I just came out.

11 Q There was no one at the door when you left the apartment?

12 A No.

13 Q Was this an apartment, by the way?

14 A Yes, it was an apartment.

15 Q And when you left this apartment and went to the street,
16 what did you see?

17 A Mr. Salter and another fellow was in the front seat and
18 the young lady in the back seat.

19 Q Now, in what position was Mr. Salter in the front seat,
20 do you recall?

21 A He was sitting beside the driver.

22 Q He was not in the driver's seat?

23 A No.

24 Q He was in the passenger seat?

25 A Yes.

17a

1 Q Did you get into the automobile?

2 A Yes.

3 Q Did you have any conversation with Mr. Salter when you
4 got into the car?

5 A Not at that time.

6 Q Where did you, - what happened after you got into the
7 automobile?

8 A He said he was supposed to pick up three friends.

9 Q Who said this?

10 A Mr. Salter. He was talking to the other fellow. He say
11 "I have to pick up three friends. I am going to look
12 for the friends", and then we start to drive around look-
13 ing for the friends.

14 Q Did you give any money to Mr. Salter?

15 A I gave him the money when I went in the car after we
16 drive off. I handed him the money over from the back
17 seat.

18 Q Did he ask you any questions before you gave him the
19 money?

20 A No.

21 THE COURT: Excuse me. How much money did
22 you give him, do you remember?

23 THE WITNESS: \$250.

24 THE COURT: How did that break down in twenties,
25 tens, fives, hundred dollar bills, ones,

18a

1 do you remember?

2 THE WITNESS: It was twenty, ten, five and - -

3 THE COURT: All right.

4
5 BY MR. BURNS:

6 Q Was this in Canadian currency, Miss Hurst?

7 A Yes.

8 Q What happened after you gave the money to Mr. Salter?

9 A Nothing.

10 Q Did you have any conversation with him then?

11 A No.

12 Q Where did you go after that point?

13 A After he start to drive around looking for his friends
14 and didn't find them and then we drove, - I don't know
15 which street, but he drove to a street and pick up a
16 young lady and we change cars.

17 Q Now, how many individuals were in the car when you
18 were driving around?

19 A The four of us.

20 Q The four of you?

21 A Yes.

22 Q The two men in the front and the two women in the back?

23 A Yes.

24 Q And when you arrived to pick up the other lady, what
25 did you do?

19a

1 A. We came out of that car and went into another car.

2 Q. Who got out of the first car, the car that you had been
3 riding in?

4 A. The three of us and Mr. Salter and the other young lady
5 and myself.

6 Q. Mr. Salter got out of the first car?

7 A. Yes.

8 Q. Together with you and the other young lady?

9 A. Yes.

10 Q. Do you know the other lady's name?

11 A. When I went in the car, she introduced herself to me as
12 Shirley.

13 THE COURT: Shirley?

14 THE WITNESS: Yes.

15
16 BY MR. BURNS:

17 Q. Now, when you arrived at this other car, do you recall
18 what kind of a car that was?

19 A. It was a greenish color car.

20 Q. Do you recall the size?

21 A. It was a big one, I don't know the name.

22 MR. NAPIER: I am sorry. I didn't hear that.

23 (Answer read by the reporter as
24 follows:

25 "A. It was a big one. I don't

know the name.")

BY MR. BURNS:

Q Where did you seat yourself in that car?

A In the back.

Q Did anyone tell you to get into the car?

A Yes.

Q Who?

A Mr. Salter.

Q What did he say to you when you arrived at that car before you got out of the first one?

A He didn't say anything.

MR. NAPIER:

I object to that, suggesting that he is saying something.

THE COURT:

Did he say anything?

THE WITNESS:

No, he didn't say anything except I must get in that car.

THE COURT:

Next question, please.

BY MR. BURNS:

Q What position were you in in that car, which seat?

A The back seat.

Q Where were the other two people seated then?

A Shirley was in the back seat with me and then Mr. Salter and the other young lady was in the front.

Q Where did you go from that point?

21a

1 A. Well, he started to drive again looking for the other
2 fellows, but we didn't find them.

3 Q. Do you know approximately how long you were driving
4 around?

5 A. Quite a while. I don't remember how long, but it was
6 quite a while.

7 Q. And did you pick up any other, or were any other passengers
8 picked up?

9 A. No.

10 Q. So how many people were in the car altogether?

11 A. Four.

12 Q. Who were the four?

13 A. Shirley and myself and the other young lady and Mr.
14 Salter.

15 Q. Do you know the other young lady's name?

16 A. No.

17 Q. What did you do after riding around for a while?

18 A. Then decide to come straight.

19 Q. You decided what?

20 A. He decided to come straight. He say he couldn't look
21 for them no longer.

22 Q. Did he say anything about that?

23 A. No.

24 Q. What did you do at that point?

25 A. Nothing.

1 Q Well, did Mr. Salter do anything when he couldn't find
2 the other passengers?

3 A No.

4 Q Well, did you stay in Toronto?

5 A No.

6 Q Where did you go?

7 A We leave Toronto and he say he was coming to the United
8 States now because he couldn't wait on the fellows no
9 longer.

10 Q I am sorry. He said what?

11 A He said he couldn't wait because he never knew where
12 to find them.

13 Q Then he said what?

14 A He was coming straight.

15 Q Did he say where he was going then?

16 A No, not really.

17 Q Now, where did you go, where did he drive to?

18 A I don't know, but, - I don't know where he drive to.
19 I don't know the streets or anything like that.

20 Q Well, what kind of a highway did you travel on?

21 A I don't know.

22 Q Was it a wide one?

23 A Yes.

24 MR. NAPIER:

I object, your Honor, to leading
the witness.

25

23a

1 THE COURT:

All right. It was leading, but
2 next question, please.

3
4 BY MR. BURNS:

5 Q Well, where did you stop; where did you next stop in the
6 automobile?

7 A He stopped at a gas station.

8 Q Do you know where the gas station was?

9 A No.

10 Q Did you stop any other place?

11 A Yes.

12 Q Where did you stop?

13 A Stop at the restaurant.

14 Q Do you know where this restaurant was?

15 A No, but from - -

16 MR. NAPIER:

I object then, if she doesn't know
17 where it is.

18 THE COURT:

I will sustain the objection.
19 Next question, please.

20
21 BY MR. BURNS:

22 Q What happened at this restaurant?

23 A When we reached the restaurant, he told me to come out
24 of the car and Shirley must go in the front seat. The
25 other lady came out and he told us to wait here and he

- 1 will soon be back.
- 2 Q I am sorry, to wait here and what?
- 3 A He will soon be back.
- 4 Q Go ahead.
- 5 A And he and Shirley drove off.
- 6 Q Did you see where they drove?
- 7 A They went towards a bridge.
- 8 Q They went towards a bridge?
- 9 A Yes.
- 10 Q Did he say anything to you, - did Mr. Salter say anything
- 11 to you before he left with Shirley?
- 12 A No. He only say he will soon be back.
- 13 Q And what did you do in the meanwhile?
- 14 A The young lady and myself went into the restaurant.
- 15 Q And what did you do in the restaurant?
- 16 A She order food, but I really didn't eat anything. I had
- 17 a cup of coffee.
- 18 Q And did Mr. Salter return?
- 19 A Yes, a short time after.
- 20 Q How short a time would you say it was?
- 21 A I couldn't say, but he return before the young lady
- 22 finish eating.
- 23 Q And what happened when he returned?
- 24 A I asked him for Shirley and he told me that Shirley is
- 25 at his home.

1 THE COURT: Shirley is what?

2 THE WITNESS: Is at his home.

3 THE COURT: All right.

4
5 BY MR. BURNS:

6 Q Did you ask him any other questions?

7 A No. I said to him if he reaches home so quick and he say,
8 "Yes".

9 Q Did he say where his home was?

10 A Buffalo.

11 Q He said in Buffalo?

12 A Yes.

13 Q Now, did he say anything else to you while you were at
14 that restaurant?

15 A I don't think so. He said when I reach to the end,
16 to the border or something like that and they ask me
17 where I am from, I must say - -

18 THE COURT: You will have to repeat that.

19 THE WITNESS: If they ask me where I am from,
20 I must tell them Buffalo or something
21 like that, or from the United States,
22 something like that.

23 BY MR. BURNS:

24 Q Did he tell you anything else before you left the restaur-
25 ant?

- 1 A. I don't think so.
- 2 Q. What did you do after he told you this?
- 3 A. He told me to get in the car.
- 4 Q. And did you get in the car?
- 5 A. Yes.
- 6 Q. Was this the same car that he had been driving earlier
7 that picked you up in Toronto?
- 8 A. I don't quite remember.
- 9 Q. Who else was in the car?
- 10 A. The other young lady.
- 11 Q. Was this the other young lady - -
- 12 A. He came back with another fellow. Him and another
13 man came back.
- 14 Q. So how many people were in the automobile altogether?
- 15 A. Four.
- 16 Q. And where did you go from that point?
- 17 A. Well, we went over the bridge and we reached, - I don't
18 know what it is, but we stop there.
- 19 THE COURT: You went over the bridge and you
20 reached a what?
- 21 THE WITNESS: Toll guards, I don't know.
- 22 THE COURT: Toll guards?
- 23 THE WITNESS: What you call it.
- 24 THE COURT: All right. Next question.
- 25

27a

1 BY MR. BURNS:

2 Q Did you make a stop after going over the bridge?

3 A No. We went to reach that point and a man stop us.

4 Q Was it a man in a uniform?

5 A Yes.

6 Q Now, did he ask any questions of you or anyone else in
7 the car?

8 A Yes. I believe he asked Mr. Salter, put his head through
9 the window and ask Mr. Salter where we were going and he
10 say, - I don't remember, but he ask him something.

11 Q Did anyone ask you any questions?

12 A Yes. The man turn to me, ask me where I was going and
13 I say New York or something like that and we all gave
14 him an answer and he ask if we had anything in the car
15 and Mr. Salter told him "no".

16 MR. NAPIER: May I have that back, that answer?

17 (Answer read as follows:

18 "A. Yes. The man turn to me, ask
19 me where I was going and I say New York
20 or something like that and we all gave
21 him an answer and he ask if we had any-
22 thing in the car and Mr. Salter told
23 him "no".)

24 BY MR. BURNS:

25 Q Do you recall any other questions being asked at that

28a

1 point?

2 A. No.

3 Q Where did you go after stopping at that toll guard?

4 A. We go to Mr. Salter's home.

5 Q Do you know where that is?

6 A. No.

7 Q Do you know how long, - approximately how long did it
8 take you to get there?

9 A. A couple minutes.

10 Q Just a few minutes?

11 A. Yes.

12 Q And what did you do when you arrived there?

13 A. Came out of the car and went into his house and when
14 I went in there, I saw Shirley.

15 Q And who is this Shirley?

16 A. The other young lady that left Toronto with me.

17 Q Did you ever learn her full name?

18 A. No, not until I reach the immigration office.

19 Q Do you know what her name is now?

20 A. Shirley Paul.

21 Q Now, did you ever discuss with Mr. Salter what was going
22 to happen after you entered the United States?

23 A. No.

24 Q Did you ever discuss where you were going to go?

25 A. Yes. I told him I was going to Brooklyn.

29a

1 Q And why Brooklyn?

2 A Because I have a niece in Brooklyn.

3 Q Now, was there ever any more discussion about how you
4 were going to get to Brooklyn?

5 A Yes. When I reach his house, he said he was going to
6 find out what time the bus leave from Buffalo to New
7 York.

8 MR. NAPIER: I will have to have that answer
9 too.

10 (Answer read as follows:

11 "A. Yes. When I reach his house,
12 he said he was going to find out what
13 time the bus leave from Buffalo to New
14 York.")

15
16 BY MR. BURNS:

17 Q Do you recall approximately what time you crossed the
18 bridge?

19 A No, because I never see any time and I don't have a
20 watch, but - -

21 Q Go ahead.

22 A It was sunny. The sun was bright, so it couldn't be
23 late.

24 Q So it couldn't be what?

25 A It couldn't be late because it was sunny.

- 1 Q The sun was still up?
- 2 A Yes.
- 3 Q Approximately how long did you stay at Mr. Salter's house?
- 4 A Maybe two, three hours.
- 5 Q Two or three hours?
- 6 A Yes.
- 7 Q What did you do during those two or three hours?
- 8 A Nothing, just sit down there.
- 9 Q Was there anyone else at the house?
- 10 A Yes. His wife was there and kids.
- 11 Q Anybody else?
- 12 A Then afterward, the three fellow that he was looking
- 13 for in Toronto came.
- 14 Q Now, what about Shirley Paul, where was she?
- 15 A She was there.
- 16 Q Also at the house?
- 17 A Yes.
- 18 Q What happened to the other young lady that was with you
- 19 at the time you crossed the bridge?
- 20 A He left her off on the way before he reach his house.
- 21 THE COURT: He left her off on the what?
- 22 THE WITNESS: On the way.
- 23 THE COURT: On the way?
- 24 THE WITNESS: Yes.
- 25 THE COURT: Just stopped at the curb and let

31a

1 her off somewhere?

2 THE WITNESS: Yes. Maybe she was living nearby.

3 I don't know.

4 MR. NAPIER: I didn't hear that.

5 THE COURT: I asked whether or not he just

6 stopped by the curb and let her off.

7 MR. NAPIER: I heard your question.

8 THE COURT: That was the question.

9 MR. NAPIER: But I didn't hear her answer.

10 THE COURT: Repeat the answer.

11 THE WITNESS: He left her off on the way before

12 he reach his house.

13 BY MR. BURNS:

14 Q Now, while you were there at the house, did Mr. Salter

15 make any telephone calls?

16 A. I don't know.

17 Q Do you know if he made any efforts to find out when the

18 buses left?

19 A. No. He said we would drive to the depot and find out

20 what time the bus leave.

21 Q He would drive to the where?

22 A. To the bus station or something to find out.

23 Q Did he leave at some point during these two or three

24 hours?

25 A. Yes. He left with the other three fellows.

32a

- 1 Q And did he say where he was going?
- 2 A No. He say he soon be back.
- 3 Q And did he return?
- 4 A Yes.
- 5 Q Did he say anything to you when he returned?
- 6 A When he came back he say the bus will be leaving at
- 7 9:00 o'clock.
- 8 Q And did you leave the residence, did you leave Mr.
- 9 Salter's residence then?
- 10 A Yes. Mr. Salter and Shirley and myself left a couple
- 11 minutes, about three quarters before nine, something
- 12 before nine.
- 13 Q Something before 9:00 o'clock?
- 14 A Yes.
- 15 Q Where did you go or who was with you when you left?
- 16 A Shirley and Mr. Salter.
- 17 Q And did you get into an automobile?
- 18 A Yes.
- 19 Q What automobile? Can you describe the automobile?
- 20 A It was the same greenish one.
- 21 Q The same one you had been in when you crossed the
- 22 bridge?
- 23 A Yes.
- 24 Q And where did you go?
- 25 A We went to the bus station.

1 Q Who was driving the automobile?

2 A Mr. Salter.

3 Q And where were you seated?

4 A In the back.

5 Q And Shirley Paul?

6 A Was in the front.

7 Q Did you go to the bus station?

8 A Yes.

9 Q And do you know approximately when you arrived at
10 the bus station?

11 A Maybe it was around 10 minutes before the bus leave or
12 something, around that time.

13 Q What did you do when you arrived at the bus station?

14 A Mr. Salter took us to the ticket office and we bought
15 a ticket.

16 Q Who bought the tickets?

17 A I bought a ticket.

18 Q You bought yourself a ticket?

19 A Yes.

20 Q What ticket did you buy?

21 A A ticket from Buffalo to New York.

22 Q Was this one way or round trip?

23 A One way.

24 Q One way?

25 A Yes.

- 1 Q Did Mr. Salter say anything to you at the bus terminal?
- 2 A No.
- 3 Q At the ticket window?
- 4 A No.
- 5 Q Now, what did you do after you bought the ticket?
- 6 A After I bought the ticket, I was talking to Shirley.
- 7 Q Mr. Salter was talking to Shirley?
- 8 A Yes, and a couple minutes before the bus ready, - was
- 9 ready.
- 10 Q And what did you do while you were waiting for the bus
- 11 to be ready?
- 12 A I was waiting.
- 13 Q Did you have any more conversation with Mr. Salter then?
- 14 A No.
- 15 Q And did you eventually go to the bus?
- 16 A Yes.
- 17 Q And did you board the bus?
- 18 A No.
- 19 Q Where did you go to meet the bus?
- 20 A As you come out the ticket office, the bus was by the
- 21 sidewalk there.
- 22 Q Were there many other people around this bus at the time?
- 23 A Yes.
- 24 Q And what did you do when you arrived at the bus?
- 25 A When I was about to enter the bus, two gentlemen stop
- us.

1 Q Now, who else was with you at that point?

2 A Shirley.

3 Q Anybody else?

4 A Many more people was there.

5 Q Was Mr. Salter with you at that time?

6 A No. Mr. Salter, after we went in the line, Mr. Salter - -

7 THE COURT: The question is simply "Was Mr.
8 Salter with you", - "Yes" or "No".

9 THE WITNESS: No.

10 THE COURT: All right.

11

12 BY MR. BURNS:

13 Q Well, did you have to wait in a line?

14 A No. We joined the line. People was already boarding
15 the bus.

16 Q When you came to the bus, there was a line of people
17 waiting to get on the bus?

18 A Yes.

19 Q Where did you position yourself?

20 A I was at the back, the end of the line.

21 Q The end of the line?

22 A Yes.

23 Q And at the time these two individuals, these two men
24 approached you, who was with you?

25 A Shirley.

1 Q And where was Mr. Salter at this point?

2 A At the time, Mr. Salter walked off, walk away, said,
3 "Goodby" and walk away.

4 Q And did these two men identify themselves to you?

5 A Yes.

6 Q How did they identify themselves?

7 A They said I must stop and they said they are Immigration
8 Officers.

9 Q And did they ask you any questions?

10 A Yes.

11 Q And what happened after they asked you some questions?

12 A I heard one of them said, "Stop that man", and when
13 I look - -

14 THE COURT: Don't tell us what they said.
15 What happened? They asked you some
16 questions?

17 THE WITNESS: Yes.

18 THE COURT: And then what happened?

19 THE WITNESS: They took us into a room and
20 asked us some more questions.

21 BY MR. BURNS:

22 Q And then did they, at some point, tell you that you
23 were in their custody?

24 A Yes.

25 Q Miss Hurst, did you ever apply to enter the United States?

1 A. Yes.

2 Q. When was that?

3 A. I applied one time in Canada and about three times in
4 Jamaica.

5 Q. And were you ever issued a visa to enter the United
6 States?

7 A. No.

8 Q. Or did any immigration officials ever give you permission
9 to enter the United States?

10 A. No.

11 Q. Were you ever issued an alien registration receipt card?

12 A. No.

13 Q. Or a border crossing identification card?

14 A. No.

15 Q. Or were you ever given an entry permit by any United
16 States Immigration Officials?

17 A. No.

18 Q. Were you ever issued a form called an Arrival and Departure
19 Record by any Immigration Officials?

20 A. No.

21 Q. When you entered the United States, were you a permanent
22 resident of the United States?

23 A. No.

24 Q. Or when you entered the United States, were you a per-
25 manent resident of Canada?

1 A. No.

2 Q. Had you been given any kind of landed immigrant status
3 in Canada?

4 A. No.

5 MR. BURNS:

Those are all the questions I have,
6 your Honor.

7 THE COURT:

8 All right. At this time, ladies
and gentlemen, there is something else
9 I ought to take up, so that before
10 hearing the cross examination, I will
11 ask you to go to the jury room and we
12 will have you back in a few minutes.
13 Miss Hurst, you also may take a break.
14 During the intermission break, do not
15 discuss this case, do not talk about it
16 to anyone at all. Take a break and
17 relax and come back in a few minutes.
18 Mr. White, would you notify Mr. Anderson
19 that we are ready and as soon as they
20 are all assembled, I will come back into
21 court.

22
23 (Recess taken at 2:45 p.m.)
24
25

1 PROCEEDINGS:

January 28, 1974, 3:55 p.m.

2 APPEARANCES:

As before noted.

3 (Defendant present.)

4 (Jury present.)

5
6 M Y R T L E H U R S T, a witness called by and in behalf
7 of the Government, having been previously duly sworn, resumed
8 the witness stand and testified further as follows:

9
10 CROSS EXAMINATION BY MR. NAPIER:

11 MR. BURNS:

Your Honor, when we closed, I
12 said I have no further questions and
13 I have none, but I would like to offer
14 in evidence Government's Exhibit Number
15 1 for identification.

16 THE COURT:

We will wait until after cross
17 examination.

18 MR. BURNS:

Thank you, your Honor.

19
20 BY MR. NAPIER:

21 Q Miss Hurst, how long have you been living in Brooklyn?

22 A Since July.

23 Q Since July?

24 A Since July, '73.

25 Q You have lived in the United States then since July of '73?

- 1 A. Yes.
- 2 Q. And how long have you been employed?
- 3 A. Over a year now.
- 4 Q. Why did you want to come to New York or the United
5 States?
- 6 A. I was, - so I wanted to go in the United States.
- 7 Q. No. I am asking about this particular time.
- 8 A. Why?
- 9 Q. Where were you going in the United States; who were
10 you going to see?
- 11 A. My niece.
- 12 Q. Well, do you recall on a previous occasion telling that
13 you wanted to visit friends in New York rather than
14 your niece?
- 15 A. I don't remember.
- 16 Q. You read English, do you not?
- 17 A. Yes.
- 18 Q. I am going to show you what is marked as Exhibit Number
19 2, which purports to be your questioning by a Leo
20 Fernan, Border Patrol Agent, on July 30th. Were you
21 not asked, if you will read along with me, "Why were
22 you going to New York City".
- 23 A. I said that.
- 24 Q. And you said at that time, "Just to visit some friends",
25 did you not?

- 1 A. I said it.
- 2 Q. But you didn't say anything about visiting your niece,
3 did you?
- 4 A. No.
- 5 Q. That is the day after the bus incident, is that correct?
- 6 A. Yes.
- 7 Q. Have you, - incidentally, how did you get to New York
8 City?
- 9 A. By plane.
- 10 Q. And did Shirley go with you also?
- 11 A. I think so.
- 12 Q. The two of you traveled down there together, did you
13 not?
- 14 A. Yes, I think so.
- 15 Q. And have you seen her at all since you have been in
16 New York?
- 17 A. No.
- 18 Q. You haven't talked with her at all.
- 19 A. Yes. We talk on the phone.
- 20 Q. A few times?
- 21 A. Yes.
- 22 Q. When is the last time you talked with Shirley? That
23 would be Shirley Paul.
- 24 A. A couple days before she left for Jamaica.
- 25 Q. And when was that?

42a

1 A. I don't remember the exact date, but sometime in
2 October.

3 Q. Are you speaking of October of this past year?

4 A. Yes.

5 Q. Do you know if she lived in the New York area up until
6 October of last year?

7 A. I know she was living with her sister in the Bronx.

8 Q. All right. Up until about October, 1974, is that
9 correct?

10 A. Yes, up until the time she left for Jamaica.

11 Q. Did you talk with her a few times between July of '73 and
12 October of 1974?

13 A. Yes.

14 Q. You have told the Court and jury here that while you were
15 in Toronto on Sunday, July 29th, that you were in two
16 cars, one of them operated by Mr. Salter, is that
17 correct?

18 A. Yes.

19 Q. Now, the Salter car, you have told us that it was a
20 greenish color?

21 A. Yes, I think so.

22 Q. Can you tell us, was that a two door car or a four door
23 car?

24 A. It was a four door car.

25 Q. When did you learn it was a four door car?

1 A. On the same day.

2 Q. The same day?

3 A. Yes.

4 MR. NAPIER: Would you mark this for identifica-
5 tion.

6
7 (Defendant's Exhibit Number 1
8 marked for identification.)
9

10 BY MR. NAPIER:

11 Q. Before I show you this, Miss Hurst, tell me, do you
12 recall testifying in this case in this building before
13 a judge or a magistrate?

14 A. Yes.

15 Q. You were asked questions, were you not, about July 29th?

16 A. Yes.

17 Q. One of the questions you were asked, were you not, and
18 I turn to Page 57, Line 17, speaking of Mr. Salter's
19 car, quote, were you asked the question "Was it a two
20 door car or a four door car"?

21 A. Yes.

22 Q. And was your answer "I don't know"?

23 A. Yes.

24 Q. I am referring, in asking the questions to Defendant's
25 Exhibit 1. Turning to the top of the very next page

1 you were asked, were you not "You don't remember if it
2 was a two door or a four door car and you got in and out
3 of that car a few times"; wasn't your answer "no"?

4 A. Yes.

5 Q. Now, do you recall if you had any difficulty getting
6 in and out of the car?

7 A. I don't remember because it was a long time ago. I
8 really don't remember.

9 Q. You don't recall now?

10 A. I don't know. It is a long time.

11 Q. Well, do you know if you remembered on August 13, 1973,
12 when you gave testimony before the Magistrate in this
13 building?

14 A. I think so, but I don't know the date. I don't remember
15 the date.

16 Q. Well, the date is August 13, 1973. Now, do you know if,
17 on that date, you remembered whether you had difficulty
18 getting in or out of the car? I am speaking now of
19 Mr. Salter's car.

20 A. I never have any difficulty getting in and out of the
21 car.

22 Q. You didn't?

23 A. No, I don't think so.

24 Q. Turning to Page 57, the same exhibit reflecting the
25 testimony of August 13, 1973, were you asked the question

45a

1 "Do you remember if you had difficulty getting into the
2 back seat?"

3 A. I don't remember.

4 Q. Was your answer "I don't remember"?

5 A. Yes.

6 Q. "You don't remember" was the next question and you
7 answered "no"?

8 A. Yes.

9 Q. Is that correct?

10 A. Yes.

11 Q. Could you tell us, Miss Hurst, approximately how long
12 you stayed in the restaurant that you referred to in your
13 earlier testimony?

14 A. I have no idea, but it wasn't such a long time.

15 Q. Well, when you say you have no idea, but it wasn't such
16 a long time, do you mean you have no idea at all?

17 A. No.

18 Q. You have told us that Mr. Salter in effect said to you
19 "I will take the \$250 and you can pay me the rest
20 later on", was it?

21 A. Yes.

22 Q. Where?

23 A. He said when I come to New York, I could pay him the
24 rest.

25 Q. When you came to New York?

- 1 A. Yes.
- 2 Q. All right. Now, you didn't have his address, did you?
- 3 A. No.
- 4 Q. And he didn't have - -
- 5 A. But he said he would give me - -
- 6 Q. Pardon me?
- 7 A. He said he would give me the address.
- 8 Q. He said what?
- 9 A. He would give me his address when I reached his house.
- 10 Q. But he never gave it to you, did he?
- 11 A. No.
- 12 Q. So you never knew his address?
- 13 A. No.
- 14 Q. And he never knew yours?
- 15 A. He gave me the telephone number.
- 16 Q. His telephone number?
- 17 A. Yes.
- 18 Q. All right, but you didn't know his address?
- 19 A. No.
- 20 Q. And he didn't know yours?
- 21 A. No.
- 22 Q. And you were going on to New York City?
- 23 A. Yes.
- 24 Q. He just trusted you?
- 25 A. He gave me his telephone number. I could call him and

1 ask him for the address.

2 Q Do you mean when you got to New York City?

3 A Yes, when I got the money.

4 Q You didn't ask him, though, when you were in Buffalo
5 for three or four hours?

6 A No, but since I had the number I said I would call him.

7 Q Well, you could have asked him right in Buffalo, could
8 you not, what his address is?

9 A Yes.

10 Q You were right at his home?

11 A He could give me too.

12 Q Right, but you never asked him for it?

13 A No, and he never gave it to me.

14 Q He never asked you for it?

15 A No.

16 Q Or gave it to you?

17 A No.

18 Q Once you arrived at the Salter house, you met his wife,
19 did you not?

20 A Yes.

21 Q And you met the two children?

22 A Yes.

23 Q And what was Mrs. Salter engaged in when you were there?

24 A I think she was washing the little girl's hair.

25 Q She was her hair?

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- 1 A. The little girl's hair.
- 2 Q. Okay. During the time that you were at the Salter house,
- 3 did you ever leave the house up until the time you
- 4 left for the bus station?
- 5 A. I don't think so.
- 6 Q. You remained there throughout, didn't you?
- 7 A. Yes.
- 8 Q. Didn't you have something to drink?
- 9 A. Yes.
- 10 Q. Did you have a beer?
- 11 A. Yes.
- 12 Q. Did you have a bottle of pop?
- 13 A. I don't remember. I know I drank a beer.
- 14 Q. All right. Were you offered anything to eat by Mrs.
- 15 Salter?
- 16 A. No.
- 17 Q. Incidentally, were you shown a copy of your testimony
- 18 that you gave before the judge or magistrate on August
- 19 13, 1973?
- 20 A. I don't remember.
- 21 Q. Well, using the same exhibit which is Defendant's Exhibit
- 22 1, you testified, did you not, - that would be Page 60,
- 23 Line 17, Answer: "No", - I am sorry. Let's begin a
- 24 little bit up in the middle of the page at Line 12,
- 25 "Did you have any meat or potatoes", and did you give

1 the answer "no"?

2 A. Yes.

3 Q. And the very next question, "Nothing else to eat at all",
4 and was the answer "no"?

5 A. No.

6 Q. "Question: Nothing", and the answer "No. His wife asked
7 us if we wanted anything to eat. I didn't want", - am
8 I reading that correctly?

9 A. Yes.

10 Q. The very next question "He asked you if you wanted some-
11 thing? Answer: Yes. His wife asked me if I wanted
12 something to eat"?

13 A. Yes.

14 Q. So your recollection about two weeks after the accident
15 was that she did offer you something to eat?

16 A. Yes.

17 Q. That is different than it is now?

18 A. Yes.

19 Q. Shirley was there, and I am speaking of Shirley Paul
20 was in the Salter house all the time that you were there,
21 isn't that correct?

22 A. Yes, I think so.

23 Q. Well, do you recall that she was there throughout the
24 time?

25 A. Yes.

1 Q She never left, did she, until both of you left for
2 the bus?

3 A I don't remember if she left.

4 Q Pardon?

5 A I don't remember if she left. I don't think so.

6 Q Mr. Burns has asked you about certain documents. Some
7 of them come to mind. You didn't tell Mr. Salter, did
8 you, that you didn't have an entry permit; you didn't
9 tell him that, did you?

10 A No.

11 Q You didn't tell him you didn't have a crossing identifica-
12 tion card, did you?

13 A No.

14 Q You didn't tell him you had a visa, did you?

15 A No.

16 Q You didn't tell him you had any of those things, did you?

17 A No.

18 Q Turning back to the restaurant, could you see the bridge, -
19 you referred to a bridge in your testimony, - could you
20 see the bridge from the restaurant?

21 A Yes. I saw the top of the bridge.

22 Q Pardon?

23 A I saw the top of the bridge.

24 Q All right. Can you tell us approximately how far away
25 the bridge was from the restaurant?

1 A. No, I couldn't tell you that.

2 Q. But you could see it from the restaurant?

3 A. I could see the top of the bridge. I knew it was a
4 bridge.

5 Q. Is that bridge the one you eventually went over?

6 A. Yes.

7 Q. And about how long did it take you to get there in the
8 automobile?

9 A. I don't know.

10 Q. Well, was it a matter of minutes?

11 A. Yes.

12 Q. Now, when you came to the bridge, somebody asked you some
13 questions?

14 A. No, past the bridge.

15 Q. Pardon?

16 A. Past the bridge.

17 Q. All right, past the bridge. At some point, some official
18 or an official looking man asked you some questions or
19 asked somebody some questions?

20 A. Yes.

21 Q. Was that a man?

22 A. I can't remember if it was a man or a woman.

23 Q. Well, I believe you said on your direct testimony that
24 it was a man.

25 A. I really don't remember right now.

- 1 Q All right. It could have been a woman?
- 2 A Yes, or it could be a man.
- 3 Q Whoever asked the questions, were you asked the question
- 4 at all where you were born?
- 5 A No.
- 6 Q Was Mr. Salter asked the question where he was born?
- 7 A At that point?
- 8 Q Yes.
- 9 A No.
- 10 Q Was Mr. Salter asked that question?
- 11 A Nobody never asked me where I was born.
- 12 Q All right. Was Mr. Salter asked where he was born?
- 13 A I don't know.
- 14 Q Well, did you hear that question?
- 15 A I don't remember.
- 16 Q Were there two others besides you and Mr. Salter in the
- 17 car, or just one other?
- 18 A Two other.
- 19 Q Were the two others asked where they were born?
- 20 A I don't remember.
- 21 Q Pardon me?
- 22 A He asked where I was going or where I was coming from,
- 23 something like that. I don't remember if they asked
- 24 where I was born.
- 25 Q Who was asked the question, whatever it may have been,

1 first?

2 A. I believe it was Mr. Salter.

3 Q. And which side of the car were you on, behind Mr. Salter?

4 A. No. I was sitting beside - -

5 Q. Or behind the passenger seat?

6 A. I was beside Mr. Salter.

7 Q. You were sitting beside Mr. Salter?

8 A. Yes.

9 Q. Now, the person who asked the question, did he lean over;
10 could you see his face?

11 A. Yes.

12 Q. And could you hear him?

13 A. No, not plainly.

14 Q. Did you tell him you couldn't hear him?

15 A. When he was talking to Mr. Salter, I wasn't really, -
16 I never really hear everything he ask.

17 Q. What question did he ask you?

18 A. I don't remember, but I believe he asked where I was
19 going.

20 Q. Is it your recollection, Miss Hurst, that the only
21 question you were asked is that of where you were going?

22 A. That's what I really remember now.

23 Q. Pardon?

24 A. That's what I remember now.

25 Q. You weren't asked any other question, were you?

1 A. I don't remember. I think it was only one question
2 I was asked.

3 Q. Mr. Salter was asked only the one question?

4 A. I think so.

5 Q. How about the unidentified woman, was she asked only
6 one question?

7 A. I think so.

8 Q. And how about the unidentified man?

9 A. Yes. I believe they asked us the same question.

10 Q. Now, you told us, on direct testimony, that someone
11 in the car, whether it was you or one of the others, I
12 don't know, was asked whether you were importing or
13 bringing anything in?

14 A. They ask if we had anything in the car we was bringing
15 in something, something like that.

16 Q. Do you recall being asked that question?

17 A. Not me.

18 Q. Do you recall it being asked?

19 A. Yes.

20 Q. Incidentally, what was the answer given to the question
21 as to where you were going?

22 A. What I answer?

23 Q. What did Mr. Salter say?

24 A. He said he was going to Buffalo, something like that.
25 I don't quite remember.

1 Q What answer did you give?

2 A I said "New York".

3 Q You said "New York"?

4 A Either New York or Buffalo.

5 Q I am sorry.

6 A Right now, I don't remember the direct answer that I
7 give.

8 Q How about the unidentified woman?

9 A I don't remember what she answer.

10 Q How about the unidentified man?

11 A I don't remember what he said either.

12 Q Well, isn't it true, Miss Hurst, that all of you gave
13 the same answer?

14 A Maybe; I don't remember.

15 Q Page 49, Mr. Burns, top of the page, the first question
16 being asked of Miss Hurst, referring again to Defendant's
17 Exhibit Number 1 for identification - -

18 MR. BURNS:

19 Well, your Honor, I think the
20 last few questions Mr. Napier asked
21 are all, - all called for hearsay
22 responses. He has been asking what did
23 the other people in the car say, not
24 just Mr. Salter and this witness, but
25 what did the other people in the car
say, and I don't think that is proper.

1 MR. NAPIER: It is hardly hearsay, your Honor.
2 THE COURT: I believe it is admissible and
3 you may ask the questions, Mr. Napier.

4 BY MR. NAPIER:

5 Q Well, the answers that were asked and the questions which
6 were given to whomever was in the car was given to some-
7 one in the car, is that correct?

8 A. Please repeat that again?

9 Q I don't know if I can. The questions that were asked
10 by this official looking man were asked of someone in
11 the car?

12 A. Yes.

13 Q And if an answer was given, it was also given by someone
14 in the car?

15 A. Yes.

16 Q And the four of you were in the car when the questions
17 and answers - -

18 A. Yes.

19 Q Were asked and given? Turning to Page 49, "Question:
20 Now, when you were, - when you crossed the Peace Bridge,
21 were you asked where you were born", and did you give
22 the answer "No"?

23 A. That's what I just told you.

24 Q I know you did. I am leading up to the very next
25 question. The very next question is "They only asked you

1 where you were going", and was your answer "Yes"?

2 A. Yes.

3 Q. In fact, the very same page, Line 17, "Only asked where
4 you were going", and is that the answer, "Yes"?

5 A. Yes.

6 Q. Very next question and answer, "Did you answer to New
7 York, or did you answer to Buffalo", were you asked that
8 question? Did you answer "To New York", or did you
9 answer "To Buffalo"? You have to say something so he
10 can hear it.

11 MR. BURNS: I didn't catch the question.

12
13 BY MR. NAPIER:

14 Q. The question is, - it is a question here, "Did you answer
15 to New York or did you answer to Buffalo", is that the
16 question that appears?

17 A. Yes.

18 Q. All right, and did you answer that "I said New York"?

19 A. Yes.

20 Q. And the very next question "And is that what all three
21 of you answered"?

22 A. Yes.

23 Q. And you said there "I believe so", did you not?

24 A. Yes.

25 Q. Does that refresh your recollection now as to what was

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1 said?

2 A. Not really, no.

3 Q Well, when you testified on this occasion, you intended
4 to tell the truth, did you not?

5 A. Yes. I am still telling the truth, but if I don't
6 remember - -

7 Q Well, you had only two weeks to recall at that time, is
8 that correct?

9 A. Yes.

10 Q Now you are about a year and a half?

11 A. Yes.

12 Q When do you first recall that any question was asked
13 about carrying something in the car or having something
14 in the car?

15 A. I believe it was asked. I don't know.

16 Q Miss Hurst, were you asked at the bridge at all if you
17 were a citizen of the United States?

18 A. No.

19 Q Were you asked if you were a citizen of any particular
20 country?

21 A. No.

22 Q So that the only thing that was asked was where you
23 were going?

24 A. Yes, I think so.

25 Q Turning to the Greyhound Bus Station at the time that

1 the Border Patrol Agent approached you, were you outside
2 the building?

3 A. Outside the building.

4 Q. And at this point, Mr. Salter had left, had he not?

5 A. Yes. He just said, "Goodby".

6 Q. And he walked away?

7 A. Yes.

8 Q. And did the patrol, - Border Patrol Agent ask you where
9 you lived?

10 A. Well, he asked me questions. I don't remember. I know
11 he asked me where I was born.

12 Q. Well, did you tell him right on the platform where you
13 were born?

14 A. No. He took us into like a baggage room.

15 Q. Well, out on the platform, what did he ask you?

16 A. Well, he identify himself that he was an Immigration
17 Officer.

18 Q. And then what did he say?

19 A. Then he tell us to come with him and he took us into a
20 room.

21 Q. He just identified himself?

22 A. Yes.

23 Q. And told you to come along with him?

24 A. I don't remember what he asked us on the platform.

25 Q. Now, at this point, you were standing in a line to go on

1 the bus?

2 A. Yes.

3 Q. Did you ever tell him that you lived in Buffalo?

4 A. Yes.

5 Q. At what point was that?

6 A. I believe in the room.

7 Q. Did he take you in the Patrol Car and ask you questions?

8 A. He didn't ask us any questions in the car.

9 Q. All right. Was it a baggage room he took you to or an

10 office?

11 A. No, it wasn't an office.

12 Q. Do you recall what Shirley told him as to where she

13 lived?

14 A. She told him, - I believe she told him Buffalo, I think

15 so.

16 Q. Miss Hurst, have you been indicted at all that you know

17 of; any charges brought against you?

18 A. Since I came here?

19 Q. Yes. I mean arising out of this incident.

20 A. Yes.

21 Q. Have charges been brought against you?

22 A. I don't know if you would call it charges.

23 Q. You don't know of any charges, do you?

24 A. No.

25 MR. NAPIER: That is all I have.

1 THE COURT: So there is no question about
2 that, Mr. Burns, as far as you know,
3 no charges have been placed against
4 Miss Hurst?

5 MR. BURNS: No, your Honor, none. I will
6 ask a few questions to clarify that
7 point.

8 THE COURT: I want a representation from the
9 Government.

10 MR. BURNS: Absolutely there are no criminal
11 charges placed against Miss Hurst, nor
12 have there been.

13 THE COURT: Because of this incident or any-
14 thing relating to it?

15 MR. BURNS: That is correct.

16
17 REDIRECT EXAMINATION BY MR. BURNS:

18 Q. Miss Hurst, after you were taken into custody by the
19 Immigration Authorities, where did they take you?

20 A. They take me to the Immigration Office.

21 Q. And did they ask some more questions of you at the time?

22 A. Yes.

23 Q. Did they allow you to go free?

24 A. No.

25 Q. What happened to you after your conversations with them?

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1 A. The other morning, they took us to some prison.

2 Q. Some what?

3 A. Prison.

4 Q. Were any proceedings - -

5 THE COURT: They call that euphemistically
6 now a holding center, I think. I think
7 your Jamaican word is a better one.
8 Go ahead, Mr. Burns.

9
10 BY MR. BURNS:

11 Q. Miss Hurst, were you the subject of any legal proceedings
12 after you were taken into custody? Let me put it this
13 way; were you the subject of any immigration and
14 naturalization hearings?

15 A. Yes.

16 Q. What was the result of those hearings?

17 A. Well, the judge ask me if I will go home voluntarily or
18 if they should deport me.

19 Q. And what was - -

20 A. So I told him I will go voluntarily.

21 Q. And what did he direct that you do?

22 A. Well, I believe that it was Mr. Schroeder or some
23 Motor Patrolman said through this case, they will give
24 me some time until the case comes up.

25 Q. I am sorry, they would what?

1 A. Give me some time until the case comes up.

2 Q. And then - -

3 A. And then I could go.

4 Q. Pardon me?

5 A. And then I could go, they put me on a \$1,000 bond.

6 Q. But they told you, - what were the conditions, - what
7 were you supposed to do when you were released?

8 A. They say I could go until the case, this case finish.

9 Q. What you mean, could go, - stay in the United States?

10 A. Yes.

11 Q. Were any promises made to you about what would happen
12 to you?

13 A. No.

14 Q. Did anyone tell you before your hearings what would
15 happen to you?

16 A. No. I don't remember.

17 Q. Well, did anyone ask you to testify in any of these
18 proceedings against Mr. Salter before you had your
19 immigration hearing?

20 A. No.

21 Q. Have you talked to anybody, - have you talked to me or
22 any Government officials or anyone really regarding your
23 testimony since the time you testified before the grand
24 jury and the time when you came here to Buffalo to
25 testify?

1 A. If anybody has talked to me about it?

2 Q. Yes.

3 A. No.

4 Q. Have you talked to Shirley Paul at all about your
5 testimony?

6 A. No.

7 Q. Or have you talked to me about your testimony?

8 A. No.

9 Q. Before you testified here today, - Well, Mr. Napier showed
10 you a document, Defendant's Exhibit 1. It is up there,
11 I believe.

12 THE COURT: Is that the grand jury testimony?

13 MR. BURNS: Yes, your Honor.

14 MR. NAPIER: No, I don't think so. Preliminary
15 hearing.

16 THE COURT: Preliminary hearing.

17
18 BY MR. BURNS:

19 Q. Mr. Napier showed you a number of places in this book
20 which is a transcript of your testimony at this prelim-
21 inary hearing. Did you read any of this before you
22 testified today?

23 A. No.

24 Q. Or have you read, - did you ever read any of this?

25 A. No.

1 Q Well, before testifying today, did you read any other
2 statement you may have given in the case?

3 A No.

4 Q Mrs. Hurst, Mr. Napier asked you some questions regarding
5 your recollection of the events at the bridge. What was
6 your state of mind when you were approaching that bridge?

7 A I was nervous and scared.

8 Q Why were you nervous and scared?

9 A Because I never know what would happen.

10 Q Did Mr. Salter tell you anything with regard to your
11 being nervous or scared?

12 A No, I don't remember.

13 Q You don't remember if he said anything at all to you?

14 A No.

15 Q Did he give you any advice about what you should do about
16 your being nervous?

17 A He only say not to be nervous.

18 Q Pardon me?

19 A He only say not to be nervous.

20 MR. BURNS: I have no further questions.

21 THE COURT: Mr. Napier.

22
23 RECROSS EXAMINATION BY MR. NAPIER:

24 Q Miss Hurst, you were nervous and scared because you
25 knew you weren't supposed to go into the United States,

1 isn't that true?

2 A. Yes, I think so.

3 Q. Or that you might get caught?

4 A. Yes.

5 Q. Now, that weighed pretty heavily on your mind, didn't
6 it?

7 A. Yes.

8 Q. Incidentally, your friend, - or I should say, Shirley
9 Paul, went back to Jamaica for a while, didn't she?

10 A. Yes, because her mother died.

11 Q. So that if you wanted to go back to Jamaica, I assume
12 you could have asked, couldn't you?

13 MR. BURNS: I object to any questions about
14 Shirley Paul, anything further along
15 this line.

16 MR. NAPIER: I am into the next question.

17 THE COURT: This has to do with Miss Hurst.
18 I will overrule the objection.

19 BY MR. NAPIER:

20 Q. You never asked, did you, to go back to Jamaica during
21 this eighteen months or so that you have been in this
22 country?

23 A. No.

24 Q. You weren't refused neither, were you?

25 A. No.

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1 Q So that you actually got where you wanted to go, the
2 United States of America, is that correct?

3 A You could say that.

4 MR. NAPIER: All right. Thank you.

5 THE COURT: Anything else?

6 MR. BURNS: Nothing, your Honor.

7 THE COURT: Thank you.

8 MR. BURNS: Except I renew the offer of
9 Government Exhibit 1.

10 MR. NAPIER: I don't think I have any objec-
11 tion.

12 THE COURT: Mark that in evidence. That will
13 be returned.

14 MR. BURNS: Yes. May we have that back?
15 I will make a suitable copy for the
16 record.

17 THE COURT: Make a copy for the record.
18 Otherwise, we will keep it here now
19 because it is very difficult to make
20 those copies.

21 MR. NAPIER: I have no objection.

22 THE COURT: Mark it in evidence.

23
24 (Government Exhibit Number 1
25 received in evidence.)

1 PROCEEDINGS: January 29, 1975, 10:05 a.m.

2 APPEARANCES: As before noted.

3 (Defendant present.)

4 (Jury not present.)

5
6 THE COURT: Mr. Burns, as I understand it, you
7 have an application. It appears now that
8 the defendant is here, defense counsel and
9 Mr. Burns and no jury.

10 MR. BURNS: Your Honor, it came to my attention
11 this morning after further conversation
12 with Myrtle Hurst who testified yesterday
13 that she has added some details that she
14 had not included in her testimony yester-
15 day and in some ways wishes to change
16 that testimony. Specifically, as it
17 relates to the identity of the person in
18 the automobile when she traveled from
19 Toronto to Fort Erie to Buffalo. She
20 said yesterday she did not know who that
21 individual was, who the woman was. She
22 tells me now she does know who it was
23 and it was Mrs. Salter and additionally,
24 there were two children in the automobile
25 at the time; that it was Mrs. Salter who

1 was in the restaurant with her waiting
2 with her while Mr. Salter left with the
3 other Jamaican alien, Mrs. Paul, so this
4 just came to my attention this morning.

5 THE COURT: How did this come about, Mr. Burns?
6 Miss Hurst testified and then left the
7 stand.

8 MR. BURNS: Yes, she did.

9 THE COURT: Will you tell us then what happened
10 next; how did this come to your atten-
11 tion?

12 MR. BURNS: Yes, your Honor. After yesterday's
13 session, I spoke with Mrs. Hurst or
14 Miss Hurst and told her that I believed
15 that Mrs. Salter may possibly be a
16 witness in this case and I asked Mrs.
17 Hurst "What will Mrs. Salter testify to,
18 can you shed any light on that". At
19 the time she appeared nervous and some-
20 what upset, but she said, "No, I do not
21 know". This morning - -

22 MR. NAPIER: You don't know what she would say?

23 THE COURT: She said - -

24 MR. BURNS: She told me last night she did not
25 know what Mrs. Salter would be saying.

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1 This morning, I spoke with Mrs. Paul,
2 the other witness to testify, and she
3 told me that the individual was, in fact,
4 Mrs. Salter and she told me somemore
5 things about what happened in the auto-
6 mobile which might incriminate Mrs.
7 Salter. Mrs. Paul told me her motives
8 for not revealing it earlier were to
9 spare Mrs. Salter any grief in any
10 criminal prosecution so when I had this
11 information, then spoke with Mrs. Hurst,
12 confronted her with the information I had
13 and she said "yes, it is true, I didn't
14 want to get Mrs. Salter involved". Once
15 the Immigration authorities had arrested
16 Mr. Salter, Miss Hurst didn't want to get
17 Mrs. Salter involved because apparently,
18 Mrs. Salter had shown some kindnesses to
19 both Mrs. Hurst and Miss Paul and assisted
20 them and they thought once Mr. Salter
21 had been arrested, perhaps the matter
22 should end there.

23 THE COURT:

24 Mr. Burns, how do these ladies know
25 that it was, in fact, Mrs. Salter in the
car?

1 MR. BURNS:

Well, your Honor, they tell me - -

2 THE COURT:

Let us take Mrs. Hurst first.

3 MR. BURNS:

Yes.

4 THE COURT:

How does she know now, because these
5 events happened back in March of 1973,
6 almost two years ago; how can we be sure
7 now that she knows that it was Mrs.
8 Salter?

9 MR. BURNS:

Well, from her testimony yesterday,
10 well, in her testimony, she said that at
11 home at the Salter residence after they
12 had come from Fort Erie to Buffalo was
13 a woman who Miss Hurst took to be Mrs.
14 Salter who was washing the child's hair.
15 This woman was the same one that came
16 across the bridge with her; was the same
17 woman that was at the restaurant, at the
18 restaurant in Fort Erie and also is the
19 same woman that Miss Hurst saw in the
20 hallway yesterday, who was excluded from
21 the courtroom by yourself.

22 THE COURT:

Did you say that they rode with this
23 lady and two children from Toronto to the
24 resturant or from the restaurant to
25 Buffalo?

1 MR. BURNS:

From Toronto. Miss Hurst now tells
me that when they switched automobiles
in Toronto and met this so-called uniden-
tified lady, that woman was, in fact,
Mrs. Salter. There were, in addition two
children with them and that then they
proceeded to Fort Erie. Miss Hurst and
Mrs. Salter were dropped off at the
restaurant and the other alien, Mrs.
Paul and the defendant, together with
two children, then drove towards the
bridge.

13 THE COURT:

I see. How many occasions since
then has Miss Hurst and the other lady
have had an opportunity to be in contact
with Mrs. Salter?

17 MR. BURNS:

Since what date was that? Since the
date of the arrest?

19 THE COURT:

This would be since March of '73.

20 MR. NAPIER:

Since July.

21 THE COURT:

I am sorry. Since July of '73.

22 MR. NAPIER:

July 29th.

23 MR. BURNS:

To my knowledge, I don't think that
they have ever contacted Mrs. Salter.
They have both told me they have not

1 contacted Mr. Salter, nor has Mr. Salter
2 contacted them.

3 THE COURT:

4 But during this day, they were with
5 Mrs. Salter for some time, I would take
6 it, - at least an hour, probably more
7 to drive from Toronto to the restaurant.

8 MR. BURNS:

9 Yes.

10 THE COURT:

11 In the restaurant, they were there
12 for - -

13 MR. BURNS:

14 Three quarters of an hour, perhaps.

15 THE COURT:

16 Three quarters of an hour, all right,
17 And then after that, was she in the car
18 when they came across the bridge?

19 MR. BURNS:

20 Yes, and this testimony will connect
21 up with Mrs. Paul's testimony. Mrs.
22 Paul will testify as to how she came
23 across the bridge, what coaching was
24 given her by Mr. Salter with respect to
25 claiming that she, Mrs. Paul, was, in fact,
Mrs. Salter.

THE COURT:

Very well. Mr. Napier, what do you
say about this?

MR. NAPIER:

Your Honor, I am, of course, taken
by complete surprise. This destroys our
defense completely. All of the testimony

1 that has been given to date, anything
2 that I have read by either Myrtle Hurst
3 or by Shirley Paul indicates that there
4 was only an unidentified woman in the
5 car at any one time once they left
6 Toronto, as other than the two Jamaicans,
7 the unidentified woman and the defendant
8 here, and we are in a completely differ-
9 ent position. We have got transcript.

10 THE COURT:

11 Of course, number one, Mr. Napier,
12 the fact that the lady told one thing
13 at the preliminary hearing, - she testi-
14 fied yesterday to one set of facts and
15 now she wants to come back and testify
16 to another set of facts, and of course,
17 you can point out to her and to the
18 jury that she evidently did not tell the
19 truth on at least one or two occasions
20 and, therefore, whatever she says now,
21 the jury should not rely upon her or
22 believe her. You say that this would
23 destroy the defense. If we have Mr.
24 Burns, - or if we permit him to let Mrs.
25 Hurst retake the stand and testify to
what she now states to be the truth,

1 would you need any time to prepare for
2 cross examination, or would you be ready
3 to cross examine right away?

4 MR. NAPIER:

I think I find myself in the posi-
5 tion, your Honor, that I have to throw
6 my client at the mercy of the Court
7 because our defense, basically, is that
8 the family came back from Toronto as a
9 family unit and that for the first time,
10 Mrs. Salter is meeting the two aliens
11 at her home. Now, we have got the added
12 factor - -

13 THE COURT:

That is what Mrs. Hurst says.

14 MR. NAPIER:

No, this is what Mrs. Salter will
15 testify to. It is no secret that she
16 was going to testify in effect to this
17 on the stand that she was going to be a
18 witness. She has been in court yester-
19 day and I had her come down today. We
20 have got the added factor that - -

21 THE COURT:

Excuse me, Mr. Napier. What would
22 she say? What is her position?

23 MR. NAPIER:

Mrs. Salter?

24 THE COURT:

Yes.

25 MR. NAPIER:

Mrs. Salter would say, in effect,

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1 that she, the defendant and their two
2 children went to Toronto. They were up
3 there a matter of two or three hours.
4 They were there to visit somebody. They
5 returned because they couldn't make the, -
6 they couldn't fulfill the plans, which was
7 a picnic; that the four of them returned
8 as a family unit to Buffalo and that for
9 the first time, Mrs. Salter is meeting
10 the two aliens when they come to the
11 Salter home in Buffalo. I have got to
12 lay forth my whole defense, is what it
13 amounts to.

14 THE COURT:

I am sorry, I didn't mean that you
had to, but I thought you wanted to
explain to me what she would testify to.

17 MR. BURNS:

Well, your Honor - -

18 THE COURT:

The thing is one way or another
there is a conflict in testimony between
Mr. Burns' witnesses and Mrs. Salter's
explanation here.

22 MR. NAPIER:

And we got an added factor here,
your Honor. I don't represent Mrs.
Salter either. She is now being impli-
cated. I put her on the stand.

1 THE COURT:

2 The Government, - certainly, it is
3 not the intention of Mr. Burns at this
4 trial to charge Mrs. Salter with any
5 criminal conduct. It is the Government's
6 position, I suppose, simply to have the
7 witnesses relate as exactly as they can
8 what occurred on this date.

9 MR. BURNS:

10 Your Honor, with respect to the
11 issue of whether Miss Hurst may come back
12 to testify, I should point out that Mrs.
13 Paul is here this morning, the other
14 alien. She will be testifying. There
15 certainly can be no objection to her
16 telling the story that Mrs. Salter is
17 coming across. We would still go on with
18 this. I think it is unfair to the
19 Government to be put in the position,
20 let's say, where Mrs. Paul testifies, as
21 I indicate she will, and then Mr. Napier
22 or the defense, later on to say "Well,
23 Myrtle Hurst didn't testify that way".
24 Myrtle Hurst wants to recant part of that
25 testimony now.

THE COURT:

I think it all depends on what
occurred. It occurs early in the trial.

1 Certainly, if this had occurred after
2 summation or something, we would be in a
3 different position. If it occurred
4 after a trial and there was a verdict of
5 not guilty, the Government wouldn't have
6 a leg to stand on, but I am going to - -

7 MR. NAPIER: Your Honor, I end up with no defense.

8 MR. BURNS: I don't like this set of affairs
9 either.

10 THE COURT: I think you have a different defense.

11 MR. NAPIER: Frankly, your Honor, I don't see
12 where I got a defense at all in my client's
13 behalf.

14 THE COURT: Mr. Napier, whether you have a de-
15 fense or not, that is one of the diffi-
16 culties of life.

17 MR. NAPIER: The point being, your Honor, - -

18 THE COURT: It is not my job here to see that
19 everybody has a defense. It is my job
20 to see to it that the witnesses are
21 fairly presented, you have opportunity
22 for cross examination and then let the
23 chips fall where they may.

24 MR. NAPIER: Yes, your Honor, but the theory,
25 the thrust of the Government is different

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1 in the sense that they have now got a
2 witness who is recanting and that puts
3 my defense completely by the boards
4 because the strength of my defense I had
5 Mrs. Salter. Now, by being told that
6 Mrs. Hurst is going to identify her as
7 the other woman in the car, it completely
8 destroys any defense I have got. I just
9 don't have one.

10 THE COURT:

11 I do not see that at all. Simply
12 because, - now it becomes a question of
13 credibility between Mrs. Hurst and Mrs.
14 Salter and I suppose, - we haven't heard
15 from the other lady yet, - but the other
16 lady and Mrs. Salter and since Mrs.
17 Hurst, - Miss Hurst recanted and told
18 a number of different stories, you can
19 certainly argue forcefully to the jury
20 that she isn't worthy of belief. At any
21 rate, I am going to grant Mr. Burns'
22 motion. Let us have the witness return
23 and the jury come up.

24 MR. NAPIER:

25 Your Honor, may I point out the
added thing I started to say. I don't
represent Mrs. Salter and if she takes

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1 the stand now, and certainly if they
2 believe Miss Paul and Miss Hurst, she has
3 got her own particular problem that I am
4 not representing her on.

5 THE COURT:

We will take that up when it comes.

6 MR. NAPIER:

Your Honor, I am just put in a
7 horrible position here. I just don't
8 see how I can fairly represent the client
9 being given this notice.

10 THE COURT:

Mr. Napier, I have told you that I am
11 going to permit this lady to testify on
12 direct examination. If you want some
13 reasonable break to have her step off
14 the stand and have a reasonable break
15 before continuing cross examination, I
16 will give it to you, but she is going to
17 come in now and she is going to testify
18 on direct and then we will find out what
19 we will do after she testifies. Is Miss
20 Hurst outside?

21 MR. BURNS:

Yes, she is.

22 THE COURT:

Have her come in.

23
24 (Jury returns to the courtroom.)
25

1 MYRTLE HURST, a witness called by and in behalf of
2 the Government, having been previously duly sworn, resumed the
3 witness stand and testified further as follows:

4
5 REDIRECT EXAMINATION BY MR. BURNS:

6 THE COURT: Good morning, ladies and gentlemen.
7 We are going to, - the Government has
8 recalled Miss Hurst. There is no need
9 for you to be sworn, Miss Hurst, you are
10 still under oath on this particular trial.

11
12 BY MR. BURNS:

13 Q Miss Hurst, you testified in this proceeding yesterday.
14 Are there portions of your testimony that you now wish
15 to change or to modify?

16 A Yes.

17 Q Now, Mrs. Hurst, or rather Miss Hurst, you testified
18 yesterday that you were in one automobile in Toronto
19 and then got out of that automobile with Mr. Salter and
20 entered another automobile.

21 A That's right.

22 Q Who was present at that time?

23 A Mr. Salter's wife and two kids.

24 Q Where were they?

25 THE COURT: Wait a minute. Let us get this

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1 straight this time. You say Mr. Salter's
2 wife and two kids?

3 THE WITNESS: Yes.

4 THE COURT: When you got in the other car?

5 THE WITNESS: Yes.

6 THE COURT: Was Mr. Salter there?

7 THE WITNESS: Yes.

8 THE COURT: Was anyone else with you?

9 THE WITNESS: Shirley was with us.

10 THE COURT: Who?

11 THE WITNESS: When we changed the first car to go
12 in the other car, he took up his two
13 kids and his wife and Shirley, the two
14 kids, the wife, Mr. Salter and myself.
15 went in the second car.

16
17 BY MR. BURNS:

18 Q Now, when you referred yesterday to this unidentified
19 woman, was this the woman you then took to be Mrs.
20 Salter?

21 A Yes. She was the unidentified woman.

22 THE COURT: Keep your voice up, please.

23 THE WITNESS: She was the unidentified woman.

24 BY MR. BURNS:

25 Q How did you know she was Mrs. Salter?

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1 A. Because he introduced her as his wife.

2 Q. What happened after that point?

3 A. Well, after we reached the restaurant, Mr. Salter and
4 Shirley and the two kids left.

5 Q. Was this the restaurant in Fort Erie?

6 A. Yes.

7 Q. All right. Who got out of the automobile in Fort
8 Erie?

9 A. Mrs. Salter and myself.

10 Q. And where did you go?

11 A. In the restaurant.

12 Q. And where did Mr. Salter go?

13 A. He and Shirley and the two kids left us.

14 Q. And did Mr. Salter return?

15 A. Yes.

16 Q. Who was with him when he returned?

17 A. He returned with another fellow.

18 THE COURT: Excuse me. How long was he gone?

19 THE WITNESS: I don't have any idea, but it wasn't
20 a long time.

21 THE COURT: Go ahead, Mr. Burns.

22
23 BY MR. BURNS:

24 Q. Did he return with Mrs. Salter in his company?

25 A. With Mrs. Salter?

- 1 Q Was Mrs. Salter with him when he returned?
- 2 A Mrs. Salter was with me at the restaurant.
- 3 Q And what did he do when he arrived back at the
- 4 restaurant?
- 5 A Came in the restaurant and I asked him for Shirley and
- 6 he told me that Shirley at his home.
- 7 Q Then what did you do after that conversation?
- 8 A We came out of the restaurant and went into the car.
- 9 Q Was there anyone else in the car?
- 10 A Yes, the other fellow that they came with.
- 11 Q There were four individuals in the car?
- 12 A Yes.
- 13 Q Where were you seated?
- 14 A In the front.
- 15 Q And where was Mr. Salter seated?
- 16 A In the driver's seat.
- 17 Q And where was the other gentleman seated?
- 18 A In the back.
- 19 Q Now, did anything happen at the bridge in a different
- 20 manner from the way you testified yesterday?
- 21 A No.
- 22 Q Where did you go after you entered the United States?
- 23 A We went to Mr. Salter's home.
- 24 Q Did you ever leave Mr. Salter's home?
- 25 A Yes.

1 Q Where did you go?

2 A The wife took Shirley, the two kids and myself to buy
3 some hamburgers.

4 Q Did you buy any, - did you have any hamburgers?

5 A No.

6 Q Do you recall where you went?

7 A After we left there, she drove us to find out what
8 time the bus would be leaving.

9 Q Mrs. Salter drove you - -

10 A Mrs. Salter.

11 Q Pardon me?

12 A Mrs. Salter. Mr. Salter didn't go to buy the hamburgers
13 with us.

14 Q Yes, but after you bought the hamburgers, where did you
15 go?

16 A To find out what time the bus would be leaving.

17 Q And where did you go to find that out?

18 A I don't know.

19 Q Were you driving in an automobile?

20 A Yes.

21 Q There were how many in the automobile at that time?

22 A Shirley, myself, the two kids and Mrs. Salter.

23 Q Mrs. Salter?

24 A Mrs. Salter.

25 MR. NAPIER: I didn't get the answer. Could I

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1 have it, Mr. Knisley?

2 (Answer read as follows:

3 "A. Shirley, myself, the two kids
4 and Mrs. Salter.")

5
6 BY MR. BURNS:

7 Q Was Mrs. Salter driving the car?

8 A Mrs., yes.

9 Q Do you recall driving to a particular building?

10 A Maybe - -

11 Q Was this the same, - was this a bus terminal?

12 A No. No, it wasn't the same place we bought the ticket.

13 THE COURT:

I think sometimes when Miss Hurst
14 says "Mrs." you think it is "Mr." and
15 vice versa.

16 THE WITNESS:

Yes.

17 THE COURT:

Why don't we go back to the time
18 you left the bridge.

19 THE WITNESS:

Yes.

20 THE COURT:

One thing, yesterday you said
21 after you left the bridge and you were
22 driving to the Salter home, as I recall,
23 there was some testimony yesterday about
24 you left some young lady off.

25 THE WITNESS:

Yes.

1 THE COURT: Now, did that occur?

2 THE WITNESS: No. There was no young lady.

3 THE COURT: Then when you got to the Salter

4 home, who was in the car just before you

5 got to the home?

6 THE WITNESS: When we left the border, when we

7 left after they asked us the questions

8 and we leave there, we stop and we came

9 out of that car that I came into.

10 THE COURT: I see. You got into a different

11 car?

12 THE WITNESS: Yes, and the other fellow drove off

13 in the car we came in and we went back

14 into Mr. Salter's car, so we changed

15 car between the border to the home.

16 THE COURT: I see. After you come over the

17 bridge - -

18 THE WITNESS: Yes.

19 THE COURT: Then you got in a different car?

20 THE WITNESS: We got into the car that drove us

21 to the restaurant. Mr. Salter left that

22 car along the way.

23 THE COURT: Who got into the second car?

24 THE WITNESS: After we leave the border?

25 THE COURT: Yes.

1 THE WITNESS: The wife, me and Mr. Salter.
2 THE COURT: All right. The other man that was
3 with you in the other car, what did he
4 do?
5 THE WITNESS: He drove off in the car.
6 THE COURT: He drove off in the car?
7 THE WITNESS: Yes.
8 THE COURT: You and Mr. Salter and Mrs. Salter
9 were in the second car and where did you
10 go?
11 THE WITNESS: We drove to his home.
12 THE COURT: When you got to his home, what did
13 you do?
14 THE WITNESS: Went inside and I saw Shirley there
15 with the kids.
16 THE COURT: All right, Mr. Burns.
17
18 BY MR. BURNS:
19 Q How long did you stay at the residence then?
20 A Before we went to the restaurant?
21 Q Yes.
22 A Just a couple minutes because she ask Shirley if she
23 was hungry.
24 Q And then who stayed at the home when you left?
25 A Mr. Salter was there with the kids.

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1 Q Mr. Salter?

2 A Yes.

3 Q With the children?

4 A Yes.

5 Q Who went to the restaurant then?

6 A Shirley, Mrs. Salter, the two kids and myself.

7 Q Were there four children involved altogether?

8 A Two children.

9 Q Well, which children remained at the home?

10 A No children were left at the home.

11 Q Who was left at the home when the four of you were in
12 the automobile?

13 A Oh, I am sorry. Mr. Salter was left at the home and
14 the three fellows he was looking for in Toronto, we
15 left the four of them home.

16 Q When did they arrive?

17 A They arrived a little before we left for the restaurant.

18 Q Mrs. Salter drove the automobile to the restaurant?

19 A Mrs. Salter drove the - -

20 THE COURT: Wait a minute. Let's get back.
21 You are at the house and Shirley is
22 hungry?

23 THE WITNESS: Yes.

24 THE COURT: All right. Now, you go to get
25 something to eat?

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1 THE WITNESS: Yes.

2 THE COURT: Who went to get something to eat?

3 THE WITNESS: Shirley, the two kids, myself and

4 the wife.

5 THE COURT: That is fine, very good. All right.

6 Mr. Burns, now we go there and we get

7 something to eat.

8 THE WITNESS: Yes.

9 THE COURT: What happens after you get something

10 to eat?

11 THE WITNESS: After we leave here, she drive to

12 find out what time we can get the bus to

13 New York.

14

15 BY MR. BURNS:

16 Q Do you know to where she drove?

17 A No, I don't have no idea.

18 THE COURT: I don't know whether, - maybe it

19 matters, but I can't see how it matters.

20 Did you go back to the house?

21 THE WITNESS: Yes.

22 THE COURT: When you got back to the house, did

23 you stay there for some time?

24 THE WITNESS: Yes.

25 THE COURT: About how long?

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1 THE WITNESS: Oh, about one to three hours.

2 THE COURT: Mr. Burns.

3

4 BY MR. BURNS:

5 Q Now, who was at the home during those two or three
6 hours?

7 A Well, when we left Mr. Salter and the other three
8 fellows was there.

9 Q And when you returned?

10 A They was still there.

11 Q The three fellows and Mr. Salter?

12 A Yes. They was drinking.

13 Q Pardon me?

14 A They was drinking.

15 THE COURT: Mr. Burns, - did there come a time
16 when you left the home?

17 THE WITNESS: Only that one time.

18 THE COURT: No. You finally had to leave the
19 home, didn't you?

20 THE WITNESS: Yes, when we went to get the bus.

21 THE COURT: You went and you got something to
22 eat?

23 THE WITNESS: Yes.

24 THE COURT: You went back to the home?

25 THE WITNESS: Yes.

1 THE COURT: And you were there about two hours?
2 THE WITNESS: Yes.
3 THE COURT: And did you leave again?
4 THE WITNESS: Yes.
5 THE COURT: When you left that time, who was in
6 the car?
7 THE WITNESS: Mr. Salter, Shirley and myself.
8 THE COURT: This is Mr. Salter?
9 THE WITNESS: Mr. Salter.
10 THE COURT: All right, and where did you go?
11 THE WITNESS: To the bus.
12 THE COURT: Mr. Burns.
13
14 BY MR. BURNS:
15 Q Did you see Mrs. Salter at any point after that, after
16 you left the home?
17 A. No.
18 Q When was the next time you ever saw this woman you
19 believe to be Mrs. Salter?
20 A. Only yesterday.
21 Q Now, when did you first reveal these facts to the
22 agents of the Government?
23 THE COURT: Excuse me. There is no objection
24 and Mr. Napier - -
25 MR. NAPIER: I will object.

1 PROCEEDINGS: After recess, 10:55 a.m.

2 APPEARANCES: As before noted.

3 (Defendant present.)

4 (Jury present.)

5
6 M Y R T L E H U R S T, a witness called by and in behalf of
7 the Government, having been previously duly sworn, resumed
8 the witness stand and testified further as follows:

9
10 RECROSS EXAMINATION BY MR. NAPIER:

11 THE COURT: All right, Mr. Napier, when you are
12 ready.

13
14 BY MR. NAPIER:

15 Q Miss Hurst, I would like to clear up the one point, if
16 I can. You have told the Court and jury that you
17 switched cars after you came through Immigration on
18 the American side?

19 A. Yes.

20 Q And before you switched cars, what car were you in, -
21 Mr. Salter's car?

22 A. When we come to Immigration?

23 Q. Right.

24 A. No.

25 Q. Whose car were you in?

- 1 A. The other fellow car. It must be the other fellow that
2 came back to the restaurant with us.
- 3 Q. Well, there was somebody else driving the car when you
4 came through Immigration other than Mr. Salter?
- 5 A. Mr. Salter was driving the car.
- 6 Q. What kind of a car was it?
- 7 A. I don't remember the color, but I know it was a smaller
8 car than Mr. Salter's car.
- 9 Q. And in that car, when you came through Immigration - -
- 10 A. Yes.
- 11 Q. There was Mr. Salter, yourself and anyone else?
- 12 A. The other fellow and Mrs. Salter.
- 13 Q. So there were four of you?
- 14 A. Yes.
- 15 Q. Both Mr. and Mrs. Salter, another fellow - -
- 16 A. And myself.
- 17 Q. Can you identify that other fellow?
- 18 A. No.
- 19 Q. Not even by a first name?
- 20 A. No.
- 21 Q. By the way, can you identify any of those people in
22 Toronto? You spoke of three friends yesterday.
- 23 A. Yes.
- 24 Q. Can you identify any of them by name?
- 25 A. I remember two names.

1 Q What are their names?

2 A One, - I don't know the whole name, but one they call
3 Lester.

4 Q Does he have a last name?

5 A I don't remember the name.

6 Q Well, you knew him for some time before the 29th day
7 of July, correct?

8 A Not some time. I met him occasionally sometime at
9 parties, but no friends.

10 Q All right, but you spoke about them as friends yester-
11 day.

12 A Well, you could call them friends because I speak to
13 them all the while.

14 Q Do you remember the names of the other two?

15 A One name is Lester and the other one name is something
16 like Basil or something, Bastile.

17 Q Basilo?

18 A Basil.

19 Q How about the third one?

20 A Well, I really don't remember his name.

21 Q Were any one of the three that you met in Toronto on
22 the American side that day?

23 A I don't understand.

24 Q Well, you testified earlier that at the Salter home
25 there were three men in addition to Mr. Salter.

A Yes.

- 1 Q Were any one of the men at the home also in Toronto
2 that day?
- 3 A No, I didn't see those three until I got to his home.
4 Q So they are a different three?
5 A Yes.
- 6 Q Miss Hurst, when you told us yesterday that you remained
7 at the home of the Salters, you lied about that, didn't
8 you?
- 9 A Well, you could call it that.
10 Q Well, what else would you call it?
11 A Because I never really wanted Mrs. Salter - -
- 12 Q Wait a minute. You either lied or you didn't. Did
13 you lie about it?
- 14 A Yes.
- 15 Q And when you testified that the young lady got out
16 somewhere in Buffalo before you went to the Salter
17 house, you lied about that?
- 18 A Yes.
- 19 Q And when you testified that only you and an unidentified
20 woman got out at the restaurant before you came to the
21 bridge, you lied about that, didn't you?
- 22 A She was unidentified.
23 Q Pardon?
24 A She was unidentified until I was told her name.
25 Q You didn't identify her yesterday, did you?

1 A. No, not yesterday.

2 Q And you didn't identify her on any previous occasion
3 in any official record, did you?

4 A. No.

5 Q So you lied about it yesterday?

6 A. Yes.

7 Q You lied before the grand jury, did you not?

8 A. I wouldn't call that lying.

9 Q Well, I am sorry. It is marked Number 1 anyway, but
10 I am working with a copy, your Honor.

11 THE COURT: All right.

12 MR. BURNS: Is this Court Exhibit Number 1?

13 MR. NAPIER: Yes.

14 THE COURT: This would be Court Exhibit Number
15 1.

16 BY MR. NAPIER:

17 Q Right. You were asked "Where did you go when you
18 entered the United States", Page 7, and you said
19 "Well, Mr. Salter and myself drove to his home",
20 correct?

21 A. Yes.

22 Q Now, you didn't tell everybody that was in the car, did
23 you?

24 A. No.

25 Q Now, you go on to say, do you not, that you met his wife

- 1 and two kids?
- 2 A. Yes.
- 3 Q. You had met them before, hadn't you?
- 4 A. Yes.
- 5 Q. At the restaurant?
- 6 A. In Toronto.
- 7 Q. Don't you say here on the same page, "I met his wife
- 8 and two kids at that time"?
- 9 A. Yes. I know what I say.
- 10 Q. All right, so you lied before the grand jury, did
- 11 you not?
- 12 A. It is not a matter of lying, it is some of the - -
- 13 Q. Pardon.
- 14 A. Some of it was the truth.
- 15 Q. But some of it was a lie?
- 16 A. Some of it was true.
- 17 Q. So some of it was truthful and some of it was false,
- 18 correct?
- 19 A. I wouldn't call it false.
- 20 Q. Did you ever tell the grand jury everyone that was
- 21 in the car?
- 22 A. Yes, but I never call her any name.
- 23 Q. Pardon.
- 24 A. Yes. I told them that four of us was in the car.
- 25 Q. Did you tell the grand jury that there were the Salter

1 children in the car?

2 A. No.

3 Q. When you gave testimony at the preliminary hearing on
4 August 13, 1973, you lied at that time, did you not?

5 A. About what?

6 Q. Page 61 at the top, you were being asked about Shirley.
7 You were asked at that time, were you not, some two
8 weeks after you were brought over "And Shirley was
9 there the whole time you were there"?

10 A. Yes, I said that.

11 Q. And you answered "yes"?

12 A. Yes.

13 Q. But that wasn't true, was it?

14 A. No, not really.

15 Q. You testified, did you not, that at this proceeding
16 about two weeks after you were brought over that you
17 left a young lady out somewhere in Buffalo before you
18 went to the Salter house?

19 A. Yes, I said that.

20 Q. And you lied about that?

21 A. Yes.

22 Q. On August 13, 1973?

23 A. Yes, you could call it that.

24 Q. When you were asked about two weeks after you were
25 brought over about who was in the car, you didn't tell

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1 anything about the children, did you?

2 A. No, I didn't.

3 MR. BURNS: May I have the page, please?

4 BY MR. NAPIER:

5 Q I am asking her. I am not referring to a page. You
6 didn't say anything about the children, did you?

7 A. No.

8 Q And you didn't identify Mrs. Salter at that point,
9 did you?

10 A. No, not at that time, no.

11 Q Pardon?

12 A. At that time I didn't call any name.

13 Q Do you recall being asked at that time if you knew
14 the identify of the other woman?

15 MR. BURNS: Your Honor, if there is no page
16 specification, I think Mr. Napier is
17 trying to show some inconsistent statements.

18 MR. NAPIER: I am not using the transcript, your
19 Honor.

20 THE COURT: I think, Mr. Napier, if you are not
21 using the transcript, just put it aside
22 so there is absolutely no confusion at all
23 about having it there.

24 BY MR. NAPIER:

25 Q Do you recall being asked at that time, Miss Hurst, if

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1 you knew the identify of the young lady in the car?

2 A. I don't remember. Maybe.

3 MR. NAPIER: Your Honor, I didn't anticipate
4 the testimony on her part today, so it
5 is difficult for me to get to it.

6 THE COURT: We took a break, Mr. Napier, in
7 order to take care of that.

8

9 BY MR. NAPIER:

10 Q You were asked, were you not, Page 45, top of the
11 page "Who got into Mr. Salter's car", and did you give
12 as the answer "Shirley and myself"?

13 A. At what point?

14 Q This is when you first get into the Salter car.

15 A. When?

16 Q In Toronto.

17 A. In the first - -

18 Q In Toronto.

19 A. That must be some mistake.

20 Q Well, the question reads there, does it not, "Who got
21 into Mr. Salter's car", and did you give the answer,
22 "Shirley and myself"?

23 A. Maybe.

24 Q Well, that's what you said at the time, didn't yc

25 MR. BURNS: Your Honor, I will object at that

1 point. There is another question there
2 should be asked.

3 MR. NAPIER: I am just asking her one question
4 at a time.

5 MR. BURNS: I think it is unfair.

6 THE COURT: Just a minute. Mr. Napier may refer
7 to particular questions and answers and
8 ask whether or not this is what the
9 testimony was before the grand jury.
10 On redirect, if you want to bring out
11 additional material, you may do so, so
12 I will overrule the objection.
13

14 BY MR. NAPIER:

15 Q Is the question there "Who got into Mr. Salter's car",
16 and did you give as an answer "Shirley and myself"?

17 A Maybe yes.

18 Q And the very next question was asked, was it not "Any-
19 body else"; isn't that the question that was asked
20 there?

21 A Must be, if it is there.

22 Q And all right, and is the answer as shown on there
23 "He took up another young lady"?

24 A Yes.

25 Q Did you identify anybody else in the car by description

1 or by name?

2 A. No.

3 Q. Did you say anything about the children?

4 A. Not at that time, no.

5 Q. Did you say it at any time else in this transcript?

6 A. No.

7 Q. Did Mr. Salter tell the children to get out at the
8 restaurant?

9 A. No, I don't think so. He told me to get out.

10 Q. Did he tell anybody else to get out?

11 A. And his wife came out.

12 Q. Did the children stay at the restaurant, is that your
13 testimony?

14 A. The children stayed in the car with Shirley and Mr.
15 Salter because only the wife and myself get out of the
16 car.

17 Q. He told his wife to get out of the car?

18 A. I said it was only his wife and myself get out of the
19 car.

20 Q. Well, did anybody else get out at that point?

21 A. Shirley got out from the back seat and went into the
22 front.

23 Q. All right, and the two children stayed in the car?

24 A. Yes.

25 Q. And where did they remain in the car?

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1 A. I don't remember which one of them was sitting on the
2 front or the back. There was a little boy and a
3 little girl.

4 Q. Miss Hurst, this morning is the first time that you
5 have stated that anybody else was in the car; that is,
6 it is the first time you have testified that there
7 were children in the car, isn't that correct?

8 A. Yes.

9 Q. In any formal proceeding, is that correct?

10 A. Yes.

11 Q. And this is the first time in any formal proceeding,
12 including going before the grand jury, in speaking to
13 and giving an affidavit to Mr. Fernan the day after
14 the incident and at the preliminary hearing?

15 A. Who is Mr. Fernan?

16 Q. Mr. Fernan is the Border Patrol Agent.

17 A. Oh.

18 Q. To whom you gave a sworn statement. Do you recall that?

19 A. Yes, that was at night.

20 Q. All right. Including that affidavit, the grand jury
21 minutes, the preliminary hearing, this is the first
22 time that you have identified this unidentified woman
23 as Mrs. Salter, isn't that correct?

24 A. Yes.

25 MR. NAPIER: I have no further questions.

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1 THE COURT: Mr. Burns.

2

3 REDIRECT EXAMINATION BY MR. BURNS:

4 Q Miss Hurst, what was your reason for not revealing
5 this information until today?

6 MR. NAPIER: Objection, your Honor.

7 THE COURT: Overruled.

8 MR. NAPIER: Your Honor, it calls for a mental
9 operation.

10 THE COURT: If you want to make an argument, I
11 will listen to it at the sidebar, Mr.
12 Napier.

13 MR. NAPIER: All right.

14 THE COURT: I realize it is something, ladies
15 and gentlemen, which can only be judged
16 by what is in the witness' mind, but first
17 of all, I think that you can take that
18 into account if it is self-serving. You
19 know, if somebody tells you something
20 that is hard to check up on, you are not
21 obliged to accept it and, furthermore,
22 Mr. Napier will have the opportunity to
23 cross examine. What were your reasons,
24 Miss Hurst?

25 THE WITNESS: Well, when we reached to the

1 Immigration office Sunday night and I
2 heard that Mr. Salter was arrested, we
3 decide not to get his wife involved. We
4 say maybe she didn't know what happened
5 and we didn't know what happened to the
6 kids and since they arrest him already,
7 we decided to leave her out of it.

8
9 BY MR. BURNS:

10 Q Did she provide any assistance to you during that day?

11 A Yes.

12 Q What kind?

13 A She was very encouraging. She was very kind and she
14 was okay.

15 MR. BURNS: I have no further questions.

16
17 RECROSS EXAMINATION BY MR. NAPIER:

18 Q Miss Hurst, it has taken you about a year and a half
19 to make this disclosure, is that true?

20 A Yes.

21 Q And yet, the day after the incident, you swore out a
22 statement, did you not, against Mr. Salter?

23 A Yes.

24 Q You weren't feeling very sorry for Mrs. Salter at that
25 point, were you?

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1 A. I beg your pardon?

2 Q. You weren't feeling very sorry for Mrs. Salter at that
3 point, were you?

4 A. If I wasn't feeling sorry for her, I would make every-
5 body know she was there, but they had arrested Mr.
6 Salter already.

7 Q. The fact of the matter is that you gave a statement on
8 that occasion against Mr. Salter?

9 A. Yes.

10 Q. Did you think you were helping the family by doing that
11 and helping Mrs. Salter?

12 A. I don't know.

13 Q. Well, do you think they were going to pin medals on
14 Mr. Salter by virtue of your testimony?

15 A. Mr. Salter already got my money, so I couldn't do
16 nothing for him again.

17 Q. When you went before the grand jury you went before
18 the grand jury at the request of Mr. Burns, didn't you;
19 isn't he the one that asked you questions before the
20 grand jury right in this building?

21 A. I think so, I don't remember.

22 Q. And you went there to testify against Mr. Salter, didn't
23 you?

24 A. Yes.

25 Q. Again you weren't feeling very sorry for Mrs. Salter,

- 1 were you?
- 2 A. Of course I was feeling sorry for her.
- 3 Q. But you weren't doing anything about it?
- 4 A. What should I do?
- 5 Q. You can refuse to testify, can't you?
- 6 A. I couldn't refuse to testify.
- 7 Q. You could have come clean at that time and have given
- 8 all the facts, but you chose not to, correct?
- 9 A. Because she would get involved.
- 10 Q. Right, and you might involve yourself too, correct?
- 11 A. I was involved already.
- 12 Q. Incidentally, you could voluntarily go back to Jamaica,
- 13 could you not?
- 14 A. Yes.
- 15 Q. At any time?
- 16 A. Yes.
- 17 Q. You didn't have to stay here?
- 18 A. No.
- 19 Q. They said you can go if you wish, correct?
- 20 A. Yes.
- 21 Q. But you chose to stay in this country; that's where you
- 22 wanted to come in the first place, correct?
- 23 A. Yes.
- 24 Q. Knowing full well if you stayed, you would testify
- 25

1 against Mr. Salter?

2 A Yes.

3 Q If it came to trial?

4 A Yes.

5 Q So that you have gained by staying here, correct?

6 A I didn't gain anything.

7 Q Well, you have been here for a year and a half?

8 A Yes.

9 Q You gained that, didn't you?

10 A Yes.

11 Q And you know for a fact that if you went back there,
12 you wouldn't have to come back here and testify?

13 A Shirley came back, didn't she?

14 Q Right. I am talking about you, Miss Hurst. You knew
15 that, didn't you?

16 A I didn't know.

17 MR. NAPIER:

I have no other questions.

18 THE COURT:

Anything else?

X X X

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1 SHIRLEY PAUL (11 Ascot Avenue, Kingston, Jamaica),
2 a witness called by and in behalf of the Government, having
3 been first duly sworn, was examined and testified as follows:
4

5 DIRECT EXAMINATION BY MR. BURNS:

6 Q Is it Miss or Mrs. Paul?

7 A Mrs. Paul.

8 Q Will you step up a little bit or move your seat up a
9 little bit up to the microphone so the jury can hear
10 you. Mrs. Paul, where were you born?

11 A Jamaica.

12 Q And where were your parents born?

13 A Jamaica.

14 Q How long did you live in Jamaica?

15 A Ever since - -

16 Q Pardon me?

17 A That's where I lived.

18 THE COURT: Mrs. Paul, it is important that
19 all of the jury hear what you say so
20 you have to make a special effort to
21 speak up. You just speak up as loudly
22 as you can.

23 THE WITNESS: Okay.

24 BY MR. BURNS:

25 Q Mrs. Paul, of what country are you a citizen?

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1 tell it was him.

2 MR. BURNS: Well, if I can ask the question, I

3 can develop that.

4 THE COURT: You met him on the 29th. Let us

5 start there. Where did you meet him on

6 the 29th?

7 THE WITNESS: At Wolner Avenue where I was staying.

8 THE COURT: Who else was there?

9 THE WITNESS: A man came with him.

10 THE COURT: Do you know the name of the other

11 man?

12 THE WITNESS: No. He told me his name that

13 morning, but I don't remember it.

14 THE COURT: You don't remember. What did Mr.

15 Salter say and what did you say?

16 THE WITNESS: He introduced himself to me and - -

17 THE COURT: What happened?

18 THE WITNESS: He say he is the one will take me

19 to New York, but he had to take, - he

20 was taking two of us. First of all - -

21 THE COURT: What did Mr. Salter say to you and

22 what did you say to him?

23 THE WITNESS: I spoke to him before that, before

24 I met him that Sunday I spoke with him.

25 MR. NAPIER: I object to this as being non-

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1 responsive.

2 THE COURT:

3 You met him on the 29th and you had
4 a conversation. I want to hear what was
5 said in the conversation on the 29th
6 first. What was said? You told us he
7 said something about taking you to New
8 York.

9 THE WITNESS:

10 We introduce ourselves, he, Enid
11 Salter and I, Shirley Paul.

12 THE COURT:

13 I couldn't understand you.

14 THE WITNESS:

15 We introduced ourselves. He said
16 he was Salter, he was the one was supposed
17 to take me to New York, but he will be
18 taking another woman also, so we went
19 and picked up that woman who introduced
20 herself to me as Myrtle Hurst and then
21 we left.

22 THE COURT:

23 And where did you go?

24 THE WITNESS:

25 We went to a hotel. He said he
was going to pick up another guy who was
supposed to take either of us, one would
be taking Myrtle, - he will take Myrtle
and the other guy, or vice versa, one
will take Myrtle and the other me, so
he - -

1 THE COURT: Just a minute. We have to take one
2 thing at a time and we are moving very
3 rapidly away from the conversation that
4 you first had with Mr. Salter.

5 THE WITNESS: I am telling you like it is, sir.

6 THE COURT: Please, Mrs. Paul.

7 THE WITNESS: I am sorry.

8 THE COURT: Wait until there is a question
9 asked and only answer the question which
10 is put to you. Mr. Burns, do you want to
11 go back to that other conversation?

12 MR. BURNS: Yes, sir. I want to establish he
13 did speak with her that day and then go
14 back.

15 THE COURT: All right. You find out how she knew
16 from the conversation that this was, in
17 fact, the man she talked to before, if you
18 can, or if she can, but let her testify.

19 BY MR. BURNS:

20 Q Yes, your Honor. Mrs. Paul, did you have a conversation
21 that day with an individual, with that individual, Mr.
22 Salter, with the defendant here in the courtroom?

23 A. Will you please repeat the question?

24 Q On July 29th, did you have a conversation with the
25 defendant Mr. Salter?

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1 MR. NAPIER: That I object to.

2 THE COURT: She has related that. Did you talk

3 to him at all about the telephone call

4 that you had a few days before?

5 THE WITNESS: I don't quite remember.

6 THE COURT: All right. Let us proceed, Mr.

7 Burns.

8 BY MR. BURNS:

9 Q All right. How long did that conversation last with

10 him on July 29th when you first met him?

11 A. The meeting lasted until we reached New York.

12 THE COURT: Excuse me. You have to speak

13 slower, please. You speak very fast.

14 Just take your time and speak slowly.

15 THE WITNESS: I am sorry.

16 THE COURT: The question is how long did the

17 conversation last. Either you remember,

18 you don't remember or you can give us

19 some estimate or you can tell us exactly.

20 I mean there are a number of options.

21 THE WITNESS: I hardly understand what conversa-

22 tion because - -

23

24 BY MR. BURNS:

25 Q The first time you met the individual named Mr. Salter

1 and you exchanged some words - -

2 A. Yes.

3 Q. Approximately how long was that first conversation you
4 had with him?

5 A. Well, it wasn't long.

6 Q. Did, - had you made an appointment before that date to
7 meet the individual there?

8 A. Yes.

9 Q. How did this individual identify himself when he first
10 met you?

11 A. He identified himself as Salter. Before that, somebody
12 spoke to me - -

13 MR. NAPIER: I object to that.

14 MR. BURNS: No.

15 MR. NAPIER: I object to somebody speaking to
16 her before.

17 THE COURT: Mr. Burns, I don't know whether it
18 makes any difference, but the lady, it
19 seems to me, either she doesn't under-
20 stand or she can't remember, but let us
21 go on, period.

22 MR. BURNS: All right.

23 THE COURT: We are going to move from the con-
24 versation. Then you went somewhere else.
25 Find out what happened next.

1 MR. BURNS: Your Honor, there are other - -
2 THE COURT: Mr. Burns, you cannot testify. Miss
3 Paul - -
4 THE WITNESS: Mrs. Paul.
5 THE COURT: After you had this initial conversa-
6 tion with Mr. Salter on the 29th, did you
7 go somewhere with him or what happened?
8 THE WITNESS: Yes. We, - first of all, we went
9 to a place where he said a friend of his
10 was staying who was supposed to take one
11 of us to New York. He will take one and
12 the other guy will take one. That is
13 Myrtle and I. When we went to that place,
14 the guy wasn't there. He went to another
15 home and they said the guy left, so he
16 said he would have to take a chance and
17 take the two of us since he didn't see
18 the other guy to take any of us and then
19 we went by a home and he changed the car.
20 We all went to a car.
21 THE COURT: Mr. Burns, can you continue from
22 here? When you say you are back home,
23 is this the home on Wolner?
24 THE WITNESS: I said to a home, not back home.
25 THE COURT: A home?

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- 1 THE WITNESS: Okay.
- 2 THE COURT: Mr. Burns.
- 3 THE WITNESS: I am just, - your Honor, I am just- -
- 4 THE COURT: You wait, please, for a question.
- 5 Mr. Burns, ask a question.
- 6
- 7 BY MR. BURNS:
- 8 Q How many individuals were in this automobile?
- 9 A Six of us.
- 10 Q And to where did you drive in the car?
- 11 A We made a stop in Toronto and then we journeyed on
- 12 to Fort Erie.
- 13 Q Who was driving the automobile?
- 14 A Mr. Salter.
- 15 Q Do you recall what kind of a car it was?
- 16 A Yes. It was a Cadillac. That's all I remember of it.
- 17 Q A what?
- 18 A It was a Cadillac is all I remember.
- 19 Q A Cadillac?
- 20 A Yes.
- 21 Q Do you recall the color?
- 22 A It was kind of a bluish color, I think
- 23 Q Did you have any conversation with Mr. Salter while
- 24 you were in the automobile?
- 25 A Yes.

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- 1 Q Was there anyone else at that house?
- 2 A Yes, sir.
- 3 Q Who else was there?
- 4 A The two kids were there with me, just the kids.
- 5 Q When you arrived with the children, were there any
- 6 other people in the house?
- 7 A No, sir.
- 8 Q All right. Where did you go? What other conversation
- 9 did you have at that point with Mr. Salter?
- 10 A He said he was going for Myrtle and his wife and if
- 11 anyone come to him or call him and ask where he is,
- 12 I should tell them I don't know.
- 13 Q What did Mr. Salter do after that?
- 14 A He left. He say he was going for Myrtle.
- 15 Q And did he return to the house?
- 16 A He returned to the house with Myrtle and his wife.
- 17 Q Approximately how much later? Do you recall how much
- 18 time elapsed?
- 19 A Between three quarters of an hour to an hour, something
- 20 like that. I don't direct remember how long.
- 21 Q And what was, - was Mr. Salter alone when he returned?
- 22 A He return with Myrtle and his wife.
- 23 Q Did you see the automobile in which she was riding?
- 24 A Yes.
- 25 Q What, - could you describe that automobile?

- 1 A I don't know what it was but I remember the color.
2 It was of a creamish color, yellow, cream, something
3 like that.
- 4 Q Do you recall the size?
- 5 A It was like the size of, - it wasn't as big as a
6 Cadillac, but I couldn't direct tell you how big it
7 was.
- 8 Q Did you see anyone driving that car?
- 9 A Yes.
- 10 Q Who was driving?
- 11 A Mr. Salter.
- 12 Q Who else was in the car?
- 13 A Myrtle and his wife.
- 14 Q What did Mr. Salter do when he arrived at the house?
- 15 A He said his wife should take us to get something to
16 eat and also to the Greyhound Bus Terminal to see
17 when the bus is leaving for New York City.
- 18 Q Did you leave the house?
- 19 A Yes, sir.
- 20 Q How long had you been there before you left, do you
21 recall, approximately?
- 22 A How long was I there before?
- 23 Q Yes.
- 24 A Before I left for the hamburger shop or something?
25 No. After Mr. Salter returned to the house - -

1 A. Oh.

2 Q. How long did Mrs. Salter remain there before you left?

3 A. When Mr. Salter came back, just as he came, about
4 three minutes after he said that his wife should take
5 Myrtle and I to this place to get something to eat
6 and to go to the Greyhound Station.

7 Q. All right. Did you leave the house?

8 A. Yes, sir.

9 Q. Who was with you?

10 A. Myrtle and Mrs. Salter.

11 Q. Anybody else with you at the time?

12 A. No.

13 Q. Where did you go?

14 A. We stop at a place and got something to eat and then
15 we went to the Greyhound Bus Terminal.

16 Q. Now, how did you get to the hamburger place?

17 A. Mrs. Salter took us.

18 Q. Pardon me?

19 A. Mrs. Salter took us.

20 Q. What car were you in at that point?

21 A. The Cadillac that we left Toronto in.

22 Q. And who was left at the house?

23 A. Mr. Salter and the two kids and three other men.

24 Q. Where did the three men come from?

25 A. I don't know, but Mr. Salter told me that one of them

1 is a man who was supposed to take one of us from
2 Toronto.

3 Q Did you go anyplace after stopping for the hamburger?

4 A Yes, sir.

5 Q Where did you go?

6 A We went to the Greyhound, whatever it is, Bus Terminal,
7 to hear, - to hear what time the bus will be leaving
8 for New York City.

9 Q And where did you go after that?

10 A We went back to Mr. Salter's house.

11 Q Was there anyone else with you at the time, other than
12 the people that went to the hamburger, - to the restaurant?

13 A No, sir.

14 Q What did you do when you arrived back at Mr. Salter's
15 residence?

16 A Well, it was still early so we waited there until it
17 was time to go to the bus.

18 Q Approximately how long had you been away from the house,
19 could you estimate?

20 A I don't think it was quite an hour.

21 Q And how much longer did you remain at the house before
22 leaving for the bus terminal?

23 A About two hours or so.

24 Q What did you do during that period of time?

25 A Well, Mrs. Salter was shampooing her daughter's hair and

1 putting it up so we were all in the kitchen while she
2 was doing it and talking and --

3 Q Did you have anymore conversation while you were at the
4 house with Mr. Salter regarding the arrangements for
5 your transportation?

6 A Yes, sir.

7 Q What did he say to you?

8 A He say he will take us to Buffalo for a bus and he will
9 show us where to buy the tickets for the bus.

10 Q And did he say anything else to you about any arrangements?

11 A I don't remember.

12 Q Did there come a time when you actually left that house?

13 A Yes, sir.

14 Q Who was with you when you left?

15 A Myrtle.

16 Q Myrtle Hurst?

17 A Yes, Myrtle.

18 Q Anybody else?

19 A Mr. Salter took us.

20 Q And where did you go?

21 A We went to the bus terminal.

22 Q Did you go in an automobile?

23 A Yes, sir.

24 Q And who was driving the automobile?

25 A Mr. Salter.

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- 1 Q Which automobile was that?
- 2 A The blue Cadillac that took us, - the Cadillac that
- 3 took us from Toronto.

X X X

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- 3 MR. BURNS: Your Honor, there are a few other
- 4 facts I would like to establish prior
- 5 to the time that the witness actually
- 6 met Mr. Salter.

- 7 THE COURT: I don't know what the problem is,
- 8 Mr. Burns, but so we can talk about it,
- 9 ladies and gentlemen, will you step into
- 10 the corridor for just a minute and we
- 11 will have you right back. You can stay
- 12 there, Mrs. Paul.

- 13
- 14 (Jury escorted from the courtroom.)

- 15
- 16 MR. BURNS: Now, your Honor, do you want me to
- 17 ask the questions or just tell you what
- 18 the evidence is?

- 19 THE COURT: You tell me what the problem is.

- 20 MR. BURNS: All right. A few days before July
- 21 29th, Mrs. Paul would testify she was at
- 22 a party where she discussed her interest
- 23 in entering the United States. Some
- 24 people at that point, or some girls at
- that point said "We will let

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1 in touch with you". I don't want to
2 ask questions about that specifically,
3 however, she did receive a telephone
4 call after that party from an individual
5 who identified himself as Mr. Salter and
6 I think now that we have gone through
7 the points, through spending four or
8 five hours with Mr. Salter, conversing
9 with him, talking to him, how she recog-
10 nized the voice - -

11 THE COURT:

She told us before, Mr. Burns,
12 that she could not tell us who the man
13 was that called her on the phone.

14 MR. BURNS:

No, your Honor, I think she said- -

15 THE COURT:

All right. Mrs. Paul, looking back
16 at it now or in the end of July, July
17 29th - -

18 THE WITNESS:

Yes, sir.

19 THE COURT:

A few days before that, a man
20 called you on the telephone?

21 THE WITNESS:

Yes, sir.

22 THE COURT:

You didn't know who he was at that
23 time at all?

24 THE WITNESS:

At the time he called me?

25 THE COURT:

Yes. He said he was Salter, but

1 you didn't know who he was. It could
2 have been anyone at all?

3 THE WITNESS: Yes.

4 THE COURT: Did there finally come a time when
5 you knew this man was Salter?

6 THE WITNESS: Yes, sir.

7 THE COURT: How did you come to know that?

8 THE WITNESS: I recognized his voice.

9 THE COURT: You speak up so Mr. Napier can hear
10 you.

11 THE WITNESS: I recognize the voice.

12 THE COURT: You didn't tell us that. That isn't
13 what you told us at all before.

14 THE WITNESS: I can't understand the first time,
15 your Honor, I am sorry.

16 THE COURT: I am not going to permit that in now.
17 It isn't necessary anyway.

18 MR. BURNS: Well, your Honor - -

19 THE COURT: Mr. Burns, let's get on with this
20 lawsuit. We are standing in the bus line
21 for at least ten minutes. Salter is
22 coming, Salter is going, he is standing
23 close by. What difference does it make?

24 MR. BURNS: I think it makes a difference - -

25 THE COURT: Mr. Burns, we are not going back to

1 that telephone conversation. What
2 else?

3 MR. BURNS:

All right, your Honor. At one
4 point, she gave \$600 to another man
5 who later introduced her to Mr. Salter.
6 The money changed hands as a result of
7 the conversation with Mr. Salter. The
8 man on the telephone said "Someone
9 will be by to pick up the money and then
10 I will pick you up the morning of the
11 29th of July, or sometime in July, and
12 that is how she came to meet Salter on
13 that day.

14 THE COURT:

Did you know the man that you gave
15 the money to?

16 THE WITNESS:

No, your Honor.

17 THE COURT:

When did you give him the \$600?

18 THE WITNESS:

The 27th of July, the 27th of July.

19 THE COURT:

Around the 27th of July?

20 THE WITNESS:

Yes.

21 THE COURT:

On the 29th did you see that man
22 again after you gave him the money?

23 THE WITNESS:

Yes, your Honor.

24 THE COURT:

Where did you see him?

25 THE WITNESS:

In the car with Mr. Salter.

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1 THE COURT: All right. When you were in the
2 car with Mr. Salter and this man, did
3 anything occur between Mr. Salter and
4 this man? Did they have a conversation?

5 THE WITNESS: Yes.

6 THE COURT: All right. What was said? Did
7 they talk about money?

8 THE WITNESS: Yes.

9 THE COURT: Will you tell us what they said
10 about the money?

11 THE WITNESS: The man, he told me that money, -
12 he gave my money to Mr. Salter. Mr.
13 Salter said he received my money. I
14 said "okay".

15 THE COURT: Why didn't you tell us that before?

16 THE WITNESS: I was trying to get at that, your
17 Honor, but - -

18 THE COURT: I asked you three times about what
19 occurred in the car and you said "Nothing
20 occurred", or "I can't remember".

21 THE WITNESS: I am sorry.

22 THE COURT: I asked you specifically did any
23 money change hands.

24 THE WITNESS: I am sorry.

25 THE COURT: And I think you said "no".

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1 THE WITNESS: "Change hands", I am sorry, your
2 Honor, I didn't understand.

3
4 BY MR. BURNS:

5 Q The money didn't change hands at that point, but there
6 was conversation to the effect that he had received
7 the money?

8 A I didn't give him the money that day. He called and it
9 was the 27th.

10 MR. BURNS: Of course, your Honor, I think it
11 is critical - -

12 THE COURT: It is important, Mr. Burns, that
13 you not testify and perhaps I am making
14 it worse here, but I think this lady
15 can recall these simple events. I asked
16 her specifically was anything said about
17 money and she said either "no" or
18 "I can't remember". We will try it one
19 more time. You tell us you didn't know
20 the man at all?

21 THE WITNESS: No, your Honor.

22 THE COURT: Did you know him?

23 THE WITNESS: No, I did not know him before.

24 THE COURT: And you gave him \$600?

25 THE WITNESS: Yes, your Honor. Why I gave it to

1 him, after this person call on the
2 phone and identify himself as Mr. Salter,
3 he said he would send somebody for the
4 money and I know nobody else know I
5 was supposed to give somebody \$600, so
6 if he come for it then I know he must be
7 the person who Mr. Salter send.

8 THE COURT:

You gave him \$600 and then the next
9 thing this morning on the 29th you got
10 in the car?

11 THE WITNESS:

Yes, your Honor.

12 THE COURT:

What do you recall about what Mr.
13 Salter and this man said at that time
14 about money?

15 THE WITNESS:

The other man told Mr. Salter that
16 he got my \$600 and he told me that it
17 is okay, he gave him the \$600, and Mr.
18 Salter said he received my \$600 and I
19 said "okay", so I know we are going for
20 the other woman.

21 THE COURT:

Mrs. Paul, why didn't you tell me
22 that or tell the jury that before?

23 THE WITNESS:

Your Honor, I am sorry, but I
24 misunderstood the question. Since you
25 said if there was any money exchanged

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1 hands and the money didn't actually
2 exchange hand then, just the argument,
3 the conversation.

4 THE COURT:

Didn't I ask you about what was
5 said in the car, generally?

6 MR. BURNS:

I had asked the question about
7 any exchange and I think at that point,
8 your Honor, you did not want me to
9 pursue it so I think perhaps at that
10 point we may have gotten sidelined.

11 THE COURT:

Didn't you ask her a number of times,
12 Mr. Burns, about what was said in the
13 car?

14 MR. BURNS:

I think at that time, your Honor,
15 you had picked up the questioning. I
16 had not asked about conversations at
17 that point. I picked up after they
18 moved into the other automobile.

19 THE COURT:

Why didn't you ask her simply what
20 was said in the car? That would have
21 obviated it and - -

22 MR. BURNS:

Your Honor, when she first got that
23 telephone call, she obviously couldn't
24 say "that is Enid Salter, that is Aaron
25 Salter". She had no idea. She had

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1 never heard the voice before, I assume.
2 After spending four or five hours with
3 this voice several days later - -

4 THE COURT:

5 You could simply ask the lady
6 "When you got in the car, will you
7 please tell us what was said", and then
8 she would have related what this man
9 said to Mr. Salter and what Mr. Salter
10 said to him and that then would have
11 automatically been connected up with
12 the telephone conversation.

13 MR. BURNS:

14 But we had not even pursued the
15 telephone conversation. I didn't think
16 the Court would allow me to pursue it.
17 At that point after I couldn't get in
18 the telephone call, I said, "All right,
19 fine, we will establish that she recog-
20 nized the voice later on", and then when
21 she could identify that voice, pick it
22 up for those first few details.

23 THE COURT:

24 The telephone conversation, it seems
25 to me, is really beside the point. It
is what occurred. All right. Have the
jury come back. You simply let her
tell what was said in the car and I am

1 not going back to this telephone
2 conversation.

3
4 (Jury returns to the courtroom.)

5
6 THE COURT: Mr. Burns.

7
8 BY MR. BURNS:

9 Q Mrs. Paul, when you met Mr. Salter on July 29th, what
10 conversation took place when you entered his automobile?

11 A The other man who was in the car told me that he gave
12 Mr. Salter my \$600.

13 MR. NAPIER: This I object to, your Honor.

14 THE COURT: All right. I will overrule the
15 objection. Could we fix the time a
16 little bit better, Mr. Burns?
17 There is all of this getting in and outs
18 of the car.

19
20 BY MR. BURNS:

21 Q Approximately what time did you first meet Mr. Salter
22 on July 29th?

23 A About 12:00 o'clock.

24 Q Is this the first you had ever seen Mr. Salter?

25 A Yes.

1 Q And what did he tell you to do?

2 THE COURT: Can we come up? As I understand
3 it, and maybe my interruptions here cause
4 more trouble than anything else, but
5 there finally came a time when you and
6 Mr. Salter got in an automobile with
7 some other people or a person?

8 THE WITNESS: Another person, your Honor.

9 THE COURT: All right. There is yourself in
10 the car, Mr. Salter and another man?

11 THE WITNESS: Yes, sir.

12 THE COURT: All right. What was said at that
13 time?

14 THE WITNESS: The other man told Mr. Salter that
15 the \$600 was from me so Mr. Salter say
16 he is supposed to take me to Canada
17 and he got my \$600 and now we are all
18 going for the other woman.

19
20 BY MR. BURNS:

21 Q And what did Mr. Salter say to that?

22 A Mr. Salter told me he got my \$600 and it is okay, he
23 will take me to New York and we are going for the other
24 woman in Toronto now.

25 MR. BURNS: All right. I have no further

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1 questions.

2 THE COURT:

Mr. Burns, do you want to step
3 over here and Mr. Knisley.

4
5 (Sidebar conference held between
6 Court and counsel as follows:

7 THE COURT:

As I understand it, this lady says
8 a few days before this that she had
9 given \$600 to this other man?

10 MR. BURNS:

That is correct.

11 THE COURT:

That is not in the record yet before
12 the jury so now if you want to ask her
13 what occurred between her and the other
14 man, and describe it in her own words,
15 I will let her do it.

16 MR. NAPIER:

And I will object, your Honor.

17 THE COURT:

Surely.

18
19 (Sidebar conference concluded.)

20
21 BY MR. BURNS:

22 Q Mrs. Paul, what six hundred, - you refer to six hundred.
23 What \$600 were you referring to?

24 MR. NAPIER:

This I object to, your Honor. It
25 is being outside the presence of my

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1 client, no way of tying it up.

2 THE COURT: All right, overruled.

3 THE WITNESS: Should I answer?

4 THE COURT: Can you tell us whether or not

5 you ever, - that man that was in the car

6 with Mr. Salter, had you ever seen him

7 before?

8 THE WITNESS: Yes, your Honor.

9 THE COURT: All right. Could you tell us where

10 and when?

11 THE WITNESS: He came to my apartment, the

12 apartment I was staying on Wolner Avenue

13 on the 27th of July and he said Mr.

14 Salter sent him for the money.

15 MR. NAPIER: Your Honor, this I have got to

16 object to.

17 THE COURT: All right. As far as the conversa-

18 tion, I will sustain the objection. You

19 tell us what happened?

20 MR. NAPIER: Will you direct the jury to disre-

21 gard it, your Honor?

22 THE COURT: Disregard the prior statement made

23 by the witness about the conversation

24 that this man had with the witness.

25 Tell us what happened?

1 THE WITNESS:

Excuse me, your Honor. I am all
2 mixed up. I don't understand what I
3 should answer now.

4 THE COURT:

Nobody wants to tell you what to
5 answer.

6 THE WITNESS:

No, but - -

7 THE COURT:

Please, Mrs. Paul. We cannot
8 listen to what conversations went on
9 between you and this man, but you can
10 tell us what you did and as we under-
11 stand, there was some business that
12 occurred. You tell us what happened.
13 Can you tell us whether or not you gave
14 him anything at that time?

15 MR. NAPIER:

I object to that also, your Honor.

16 THE COURT:

All right. It is noted and over-
17 ruled.

18

19 BY MR. BURNS:

20 Q Did you give anything to this man on July 27th?

21 A Yes, sir.

22 MR. NAPIER:

I object to that as being leading.

23 THE COURT:

It is leading and I will overrule
24 it. Tell us what you did?

25 THE WITNESS:

On the 27th of July, 1973, I gave

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1 this man \$600 to give to Mr. Salter to
2 take me to - -

3 MR. NAPIER: That I object to, your Honor.

4 THE COURT: I will overrule the objection.

5 MR. NAPIER: Outside the presence of my client.

6 THE COURT: That is clear, Mr. Napier. I under-
7 stand that and it is overruled. Next
8 question, please.

9 MR. BURNS: No further questions.

10 THE COURT: All right.

11 MR. BURNS: At this time, I will also move to
12 enter in evidence Government's Exhibit
13 Number 2.

14 THE COURT: I will defer that until after
15 cross examination. All right, Mr.
16 Napier.

17
18
19 * * * * *

1 CROSS EXAMINATION BY MR. NAPIER:

2 Q The first time you met Mr. Salter, Mrs. Paul, was on
3 the 29th?

4 A Yes, sir.

5 Q You had never met him before that?

6 A No.

7 Q You are sure it was the 27th day of July that this man
8 came to you and gave you the money, two days before?

9 A Two days before.

10 Q You are sure of that?

11 A I hope so.

12 Q Can you describe this other man, give him a name?

13 A I don't remember his name.

14 Q Did he introduce himself?

15 A Yes.

16 Q And had you ever met him before?

17 A Not before the 27th.

18 Q The fact of the matter is, Mrs. Paul, Mr. Salter did
19 not receive \$600 directly from you, did he?

20 A No.

21 Q Where are you living now, Mrs. Paul?

22 A Jamaica.

23 Q How long have you lived in Jamaica since you left the
24 States, or I can ask it another way; when did you leave
25 this country to go back?

1 A Oh, yes. I understand, yes.

2 Q You were asked about that?

3 A Yes.

4 Q And you testified, did you not, that you didn't know
5 who that person was?

6 A Yes, sir.

7 Q In fact, you knew who the person was, didn't you?

8 A Yes, sir.

9 Q You knew it was Mrs. Salter.

10 A Yes, but could I say one thing?

11 Q No, not right now, and you had been introduced to Mrs.
12 Salter in Toronto?

13 A Yes, sir.

14 Q Now, do you recall that you testified about two weeks
15 after you came into this country and it would be right
16 in this building at what is known as a preliminary
17 hearing?

18 A Yes, sir.

19 Q You went before a Court; there was a judge there or the
20 equivalent of a judge, is that correct?

21 A Yes, sir.

22 Q And you were asked what you said as to who it was in
23 the car when you went through Immigration or Customs?

24 A Yes, sir.

25 Q And what did you testify to at that time?

1 A. That I did not know her.

2 Q. All right. Did you testify, and I am speaking now about
3 two weeks after you came across, as to who was in the
4 car when you came across?

5 A. Yes, sir.

6 Q. What did you testify to at that time as to how many
7 were in the car when you came through Customs or
8 Immigration?

9 A. Yes. I said it was just the two of us.

10 Q. Mr. Salter - -

11 A. I think that was what I said.

12 Q. Well, - I am turning to what is marked Defendant's
13 Exhibit Number 1, which is a transcript of the
14 testimony taken before the Honorable Edwin Maxwell at
15 Page 11, were you not asked the question, "Who else
16 was in the car when you crossed the bridge", and did
17 you answer "Mr. Salter and myself"?

18 A. Yes.

19 Q. And then the very next question, "Just the two of you",
20 and was your answer "Yes, sir"?

21 A. Yes, sir.

22 Q. What did you seek to gain by coming into this country?
23 Why did you want to come into this country?

24 A. To work.

25 Q. Have any charges or do you know of any charges having

1 along that line?

2 MR. BURNS: None whatsoever. She is scheduled
3 to depart. She is only allowed to re-
4 main in the country through January 31st.

5 THE COURT: Go ahead, Mr. Napier.

6
7 BY MR. NAPIER:

8 Q When the Border Patrol Agent, - that would be the man
9 that questioned you at the Greyhound Bus Station, -
10 when he questioned you, did he ask you where you lived?

11 A Yes, sir.

12 Q And what did you give as your answer first?

13 A Buffalo.

14 Q So you lied about that, did you not?

15 A Yes.

16 Q And you actually deceived the Immigration people when
17 you came through onto the American side, didn't you?

18 A Well, yes.

19 Q You were going to use somebody else's card, is that
20 correct, if it reached that point?

21 A Yes.

22 Q Can you tell me who the men were in Toronto that you
23 speak about?

24 A The other man?

25 Q Yes.

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- 1 A I don't know. He came to me and said that Mr. Salter
2 sent him for the money.
- 3 Q Now, I want to know the identity of those people or that
4 man by name, address?
- 5 A I just can't remember his name, but I sure do not know
6 his address.
- 7 Q When you were riding in the car from Toronto to the
8 restaurant, did you speak with Mrs. Salter at all?
- 9 A Yes, sir.
- 10 Q You told a different story, did you not, before the
11 Magistrate?
- 12 A Yes. I lied at the time.
- 13 Q About how long was the trip from Toronto to the bridge?
- 14 A It could have been about three and a half hours.
- 15 Q It could have been more than that too?
- 16 A Could be.
- 17 Q Do you recall whether the Salter automobile, the one
18 that you got into in Toronto, was a two or a four-door
19 automobile?
- 20 A I think it was a four-door.
- 21 Q You don't really know, do you?
- 22 A I don't quite remember.
- 23 Q Do you recall that was your testimony two weeks after
24 the incident?
- 25 A I don't remember, sir.

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16 A A R O N S A L T E R, S R. (597 Norfolk Avenue, Buffalo,
17 New York), the defendant herein, called as a witness in his
18 own behalf, having been first duly sworn, was examined and
19 testified as follows:

x x x

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8 Q Can you tell us, approximately, what time you left?

9 A Well, it was something after 10:00, probably around
10 quarter after, because I got to Toronto around quarter
11 after twelve.

12 Q And when you went to Toronto who went with you?

13 A My wife and two kids.

14 Q And could you tell us what the purpose of the trip was?

15 A Well, I had met a fellow by the name of Mike who
16 lived on Wynette Street in Toronto at a couple of
17 parties that I had went up there, you know, previously
18 before.

19 Q All right. Was it Mike you were going to see?

20 A Yes.

21 Q And his wife?

22 A And his wife and child.

23 Q And were there any plans that had been made to see
24 them?

25 A Well, we were supposed to be going on a picnic.

1 Q All right. When you arrived there in Toronto did you
2 go directly to Mike's home or did you stop someplace?

3 A Well, I didn't exactly, you know, remember how to get
4 to his house, so I stopped, made a phone call and told
5 him I was there and he gave me directions to his house.

6 Q All right. Now, when you came to his house I assume
7 that somebody greeted you?

8 A Yes. Well, I rang the bell and he came down and when
9 we went up to his house, you know, it looked like there
10 had been a big fight there or something.

11 Q All right. Did you eventually learn that Mike and
12 his wife had a fight?

13 A Yes.

14 Q All right. Now, what happened then?

15 A Well, Mike said we could still make a day of it, you
16 know, but he say, - well, why not leave your wife
17 here and we will go see if we can find my wife, stop
18 over a couple of friends house.

19 Q All right. What did you do then?

20 A Well, me and Mike left and - -

21 Q Did your wife and children go with you?

22 A No.

23 Q Okay.

24 A They stayed there and we stopped at three or four
25 houses and then we went to a high-rise apartment

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3

1 building. I sat in the car and Mike was gone about
2 twenty minutes. Then he came back with Shirley Paul.

3 Q And were there just the three of you at some point?

4 A Right.

5 Q And did you eventually meet any other people?

6 A Well, we stopped a couple of more places and then he
7 stopped at a single house and he went in and he was
8 gone about ten minutes or so and then he came back out
9 and he was with Myrtle.

10 Q All right. Did Myrtle enter the car?

11 A Yes.

12 Q And so that left four of you in the car?

13 A Right.

14 Q Where did you go then?

15 A Well, we made a couple more stops and while we were
16 out I told him I had a friend that lived on Huron
17 Street. It is Huron or Hudson, something like that,
18 I am not sure now.

19 Q In Toronto?

20 A In Toronto, and we stopped over there and I went in
21 and I talked to a fellow by the name of Craig and
22 his wife and asked what they were doing. I told him
23 I came over for a picnic but the guy and his wife had
24 some problems, and you know, if they felt like doing
25 anything maybe we could get together with my family

- 1 and go out to do a little sightseeing.
- 2 Q But that didn't work out?
- 3 A No.
- 4 Q Okay, and so did you get back in the car eventually?
- 5 A Yes, I went back in the car.
- 6 Q Now, were the four of you together then?
- 7 A The four of us were still in the car.
- 8 Q And where did you go?
- 9 A Mike drove over to somebody else's house. We dropped
- 10 the two women off. We went back to Mike's house and
- 11 me and the wife and kids got in the car and came back
- 12 to Buffalo.
- 13 Q Okay. About what time did you and your family leave
- 14 Buffalo? I am sorry, leave for Buffalo?
- 15 A It was around in between three and four, something like
- 16 that.
- 17 Q And did you make any stops other than for red lights
- 18 or stop signs?
- 19 A No.
- 20 Q Did you stop for gas?
- 21 A No.
- 22 Q Did you stop at a restaurant?
- 23 A No.
- 24 Q When you entered the United States, at what point did
- 25 you enter?

1 A I don't quite follow you.

2 Q Well, I guess what I am getting at , was it the
3 Rainbow Bridge?

4 A Oh, the Peace Bridge.

5 Q Okay, and I want to return not, before you go to your
6 house, or wherever you are going, I want to return
7 to the matter of meeting Mrs. Paul and Miss Hurst.
8 Did you, at any time, talk with them about their coming
9 to the United States?

10 A Well, they had mentioned it that they were coming over
11 here, you know.

12 Q Did they say when?

13 A Sometime that day. They were waiting for somebody to
14 pick them up, from what I could understand.

X X X

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20 Q Mr. Salter, I will try to pick up my thought again. I
21 would like to cover one point. When you talked with
22 Mrs. Paul or Miss Hurst, one or both of them told you
23 they were coming over later that day, is that correct?

24 A Yes, it is.

25 Q Was anything said at that time by you or them regarding

8 Q All right. Did you say anything to either one of them
9 regarding meeting them if they came over or when they
10 came over?

11 A Well, I had talked to Shirley.

12 Q That is Mrs. Paul?

13 A Yes. You know, I was talking like man to woman, you
14 know, one of them kind of conversations, and, you know,
15 I told her, I said, "I have my family with me and if
16 they did get over sometime that day to give me a call
17 when they got over on that side", you know, they could
18 have someplace to stay.

19 Q Did you give her your telephone number?

20 A Yes, I did.

X X X

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5 Q Now, would you tell us, as best you remember, approxi-
6 mately how long you were at home and what went on?

7 A I was at home about forty-five minutes or an hour,
8 maybe a little more, and Shirley called and said that
9 they were here, you know, and they were over by the
10 Bridge in a red car. I said "okay, I will be by. You
11 know what color my car is". I say "I will be down
12 there in a few minutes", you know, so I left home. I
13 went down and I parked, I believe it was on Busti
14 Avenue and a red convertible pulled up. They got out
15 of the red convertible, got in my car and I went home.
16 I told my wife that, you know, they were relatives,
17 you know. I have a rather large family.

Shirley Paul

1 A. Yes, sir.

2 Q. Three girls?

3 A. Yes, sir.

4 Q. One girl in the front seat, what was her name?

5 A. I don't know her name.

6 Q. You don't know her name?

7 A. No, sir.

Eliminary
Hearing -
Shirley Paul

1 Q. Okay. Now, who was at the Salter house when you
2 got there?

3 A. A lady was there.

4 Q. Was that his wife?

5 A. Yes, sir.

6 Q. Did he have any children there?

7 A. Yes, sir.

PRELIMINARY HEARING - SHIRLEY PAUL

1 A. No, sir.

2 Q. And, the person that you gave the money to, is that
3 the same person that you talked to on the phone?

4 A. I don't know.

5 Q. You don't know. Do you know if that was Mr. Salter
6 that came to get the money?

7 A. No.

8 Q. Was Mr. Salter the one that called you on the phone?

9 A. I don't know, I did not see the person who called me
10 on the phone.

11 Q. You don't know if it was Mr. Salter's voice?

12 A. No, sir.

13 Q. You don't have any idea?

14 A. No, sir.

15 Q. Now on the twenty-seventh somebody came by, is that
16 right?

17 A. Yes.

18 Q. And, that person came by and told you to expect to
19 go any day?

20 A. Yes, sir.

21 Q. Was that person Mr. Salter?

22 A. No, sir.

23 Q. Was it a black man?

12
13
14
15
16
17
18
19
20

Q. And, you're a fairly large sized woman, getting into the back seat of a car, and you don't remember if it was a two door or four door car?

A. I don't remember if it was a four door or two door, I really don't remember. I know the first car was a two door. I could tell that because they had to pull the front seat for me to get in.

Q. The second car you don't remember?

A. I don't remember, really, honestly.

X X X

2
3

Q. And, Shirley was there the whole time you were there?

A. Yes.

1 PROCEEDINGS OF JANUARY 15, 1974, COMMENCING AT 10:05 A.M.

2

3 MR. WAGNER:

United States of America versus
Enid Salter, also known as Aaron
Salter, Criminal 1973-302. This is
a hearing on the defendant's motion
to suppress. The Government would
call as its first witness Mr. Fernan.

9 THE COURT:

What is sought to be suppressed?

10 MR. WAGNER:

Your Honor, Mr. Fernan made certain
observations of a quantity of money
in the defendant's wallet in the
Greyhound Bus Station in Buffalo.
Mr. Napier apparently wants to suppress
any use of that evidence.

16 THE COURT:

All right.

17 MR. NAPIER:

That is correct, your Honor.

18

19 L E O J. F E R N A N , called as a witness on behalf
20 of the Government, and being first duly sworn, testified
21 as follows:

22 THE COURT:

Now, is this an observation made
23 pursuant to a search?

1 A. People getting on the bus necessarily come into the
2 United States. They might say they were admitted
3 to come to Buffalo, but then they buy a ticket after
4 they are here and proceed on to New York or other
5 destinations.

6 Q. You are checking the people on the buses for possible
7 immigration violations?

8 A. Yes.

9 Q. Did you have occasion to encounter someone that day
10 that you suspected of perhaps being involved with
11 a violation of the immigration laws?

12 A. Yes, we did.

13 Q. Could you tell us how you got involved in that?

14 A. We were checking the outbound bus, and just before
15 it left -- this is approximately nine, between nine
16 and nine-thirty at night -- there were three people
17 left on the platform.

18 THE COURT: Speak up, please, I don't hear you.

19 THE WITNESS: It was approximately nine to nine-
20 thirty at night, and there were
21 three people left on the platform
22 that hadn't yet got on the bus.
23 They were about to, when we approached

1 them and asked them their citizen-
2 ship.

3 BY MR. WAGNER:

4 Q. When you approached these people, they were planning
5 to board the bus did you say?

6 A. Yes.

7 Q. And where did this take place at the bus station?

8 A. It is on the south platform.

9 Q. This was outside or inside?

10 A. Outside on the platform.

11 Q. Where was the bus at this time?

12 A. At Gate Number 6.

13 Q. Approximately how far would you say they were from
14 the bus when you approached them?

15 A. Three to four feet.

16 Q. And can you tell us what you did then?

17 THE COURT: Were they in a queue?

18 THE WITNESS: Pardon?

19 THE COURT: Were they in a line?

20 THE WITNESS: Yes, they were near the door of the
21 bus

22 BY MR. WAGNER:

23 Q. Were there any other people in line with them?

1 A. No, they were the last three.

2 Q. They were the last three to get on the bus?

3 A. About to get on the bus.

4 Q. Could you tell us, please, what you did then?

5 A. We identified ourselves and asked them their citizen-
6 ship.

7 Q. What did they say at that time?

8 A. The two girls stated they were born in Buffalo, and
9 Mr. Salter stated he was also from Buffalo.

10 Q. Can you tell us what else happened at that time?

11 A. Well, the two girls -- what tipped us off was the
12 Jamaican accent, because of the high English accent,
13 and we proceeded to talk to them further and asked
14 for identification.

15 Q. When you say what tipped you off, what do you mean
16 by that?

17 A. Their accent was not a typical Buffalo accent, it's
18 a high English accent.

19 Q. Have you ever heard that accent before?

20 A. Yes, I have.

21 Q. And it indicated to you that they may be from
22 Jamaica, is that what you said?

23 A. Yes.

1 Q. What did Mr. Salter say to you?

2 A. He stated he was from Buffalo.

3 Q. Could you tell us, please, what you did after that?

4 A. Mr. Chandler took the girls and separated them from
5 Mr. Salter, and I was talking to Mr. Salter, I asked
6 him to show me some identification.

7 Q. Could you tell us, please, where this took place?

8 A. Mr. Chandler went across the waiting room and put
9 the two girls in the car and was talking to them,
10 and I went in the baggage room with Mr. Salter and
11 asked him for his identification, and he produced
12 a license at this time, exposing his wallet to me.

13 Q. And what did you do then?

14 A. I noticed the quantity of money there in Canadian
15 bills, and I asked him where he got all the money.

16 Q. What else did you do at that time?

17 A. I looked at the license, it said his name on it,
18 Mr. Salter, Enid or Aaron at the time --

19 THE COURT: I don't hear you. He what?

20 THE WITNESS: He produced his license, and while
21 he was producing his license, I
22 noticed a quantity of money, a
23 sizeable amount, in his wallet. I

1 asked him where he got all the money.
2 He said that he was holding it for
3 his little brother. Then I asked
4 him where he got the Canadian money,
5 and when the last time he was in
6 Canada, he said earlier that day.
7 I proceeded further and asked him,
8 "Where did you meet these two girls?"
9 Now, at this time my partner was
10 talking to the two girls in the car.
11 So he said he met them in downtown
12 Buffalo that day, and that he had been
13 with them all day.

14 BY MR. WAGNER:

15 Q. When you asked Mr. Salter for his driver's license,
16 did you observe the money at that time?

17 A. Yes.

18 Q. Did you have occasion to count the money?

19 A. I asked Mr. Salter to count it, and then I re-counted
20 it and separated the Canadian money, and gave it back
21 to him.

22 Q. Could you tell us, please, how much money you recall
23 being in the wallet that day?

1 A. Approximately \$900.

2 Q. Was that all Canadian or all American or a combination?

3 A. It was a combination.

4 Q. Do you know how it broke down?

5 A. It was smaller bills, tens, twenties. I would say
6 approximately \$500 Canadian, maybe more, maybe less.

7 Q. The remainder was American?

8 A. Yes.

9 Q. Mr. Fernan, when you first approached these people
10 at the bus station or at the loading area, did they
11 have tickets, did any of them have tickets?

12 A. Yes, the two girls had tickets.

13 Q. Did Mr. Salter have a ticket?

14 A. No.

15 Q. Could you tell us, please, what happened after you
16 counted the money and had Mr. Salter count the money?

17 A. We were still in the baggage room, and I asked him
18 where did he meet the girls. He said downtown Buffalo,
19 that he had been with them all day at a house. So
20 Mr. Chandler was still talking to the girls, I didn't
21 know how he was proceeding. He returned and said,
22 "You are under arrest," to Mr. Salter, because my
23 line of interrogation was going -- he wouldn't state

1 were wrong, correct?

2 A. Sir, anybody on the platform is supposed to wait
3 inside for the bus driver to take the tickets, they
4 are not supposed to be on the platform.

5 Q. Apart from that, you drew the conclusion and you
6 were in error, correct, you didn't find a ticket
7 on him?

8 A. No.

9 Q. Officer, also when you asked Mr. Salter to identify
10 himself, did he produce a license?

11 A. Yes, he did.

12 Q. Was it necessary for him to count the money to
13 identify himself?

14 A. Sir, at this time I didn't know that was him on
15 the license. It wasn't an immigration document or
16 a birth certificate.

17 Q. Officer, I don't think you are answering my question.
18 Was it necessary to count the money in his wallet
19 to find out his identity?

20 A. After he produced the license I wanted to know how
21 much was in there because it was a substantial --

22 Q. How does that identify him?

23 A. It doesn't.

1 Q. How does it identify him if you in turn counted it
2 and broke it down so that it is approximately \$500
3 in Canadian and \$400 in American?

4 A. It doesn't identify him.

5 Q. You did all this before you actually arrested him?

6 A. Yes.

7 Q. What was your first indication, Mr. Fernan, that
8 something may be askew or there was some violation
9 of law?

10 A. When we approached the girls and heard their accent,
11 and then Mr. Salter's accent, we wanted to identify
12 them further because the girls stated -- we asked
13 where they were born, they said Buffalo with a high
14 English accent, and we wondered why Mr. Salter would
15 be in the company of these two girls with these
16 accents when he did not in fact have a Jamaican
17 accent.

18 Q. Is that -- I guess what I am concerned with -- is
19 that a violation of law to talk to or to listen
20 to somebody with a high English accent?

21 A. Is it a violation of law to have a high English
22 accent? No, sir.

23 Q. Or to listen to one?

1		money or having him count it? I could
2		go, I assume, across that bridge
3		with a vast sum of money, what theory
4		do you advance that you required him
5		to produce his wallet and count his
6		money?
7	THE WITNESS:	After we heard the accents -- after
8		we asked the two girls and Mr. Salter,
9		and we heard the accents, because
10		of the number of people we talked
11		to down there --
12	THE COURT:	Well, did you suspect that he was
13		transporting aliens?
14	THE WITNESS:	We did not know at that time, sir.
15	THE COURT:	I have crossed the bridge and nobody
16		asked me to take my wallet out. Why
17		did you ask him to take it out?
18	THE WITNESS:	I wanted to know where he got it.
19	THE COURT:	Got the money?
20	THE WITNESS:	Yes, sir.
21	THE COURT:	Well, then you were suspicious at
22		that moment, in fact, you were
23		accusatory, that he was importing

1 aliens for profit?

2 MR. WAGNER: Your Honor, I would like to object

3 to your use of the word "accusatory."

4 THE COURT: All right, you may object. Did you

5 hear my question?

6 THE WITNESS: Yes, sir. I asked him to produce

7 the money and his identification --

8 THE COURT: Why?

9 THE WITNESS: Because after I heard the two girls

10 with their accents --

11 THE COURT: At that point you thought that Salter

12 was importing aliens for profit,

13 right?

14 THE WITNESS: I thought this could be a possibility.

15 THE COURT: All right.

16

17 BY MR. NAPIER:

18 Q. Now, Officer, about how much time elapsed between

19 your discovery of the amount of money and Mr. Chandler'

20 reappearing on the scene?

21 A. Approximately between five and ten minutes.

22 Q. Now, did you arrest Mr. Salter before Mr. Chandler

23 returned?

1 A. No, sir, I did not.

2 Q. You were just stopping him and holding him there?

3 A. Yes.

4 Q. And you knew at that point, did you not, that there
5 was a -- you were still suspicious in your mind, were
6 you not?

7 A. Yes, sir.

8 Q. And you had him produce the money, right?

9 A. Yes, sir.

10 Q. While you were suspicious?

11 A. Yes.

12 Q. You, yourself, counted the money while you were
13 suspicious?

14 A. I had him count it first, sir.

15 Q. Right, then you counted it?

16 A. Yes.

17 Q. So that you were considering putting him under arrest,
18 were you not?

19 A. At that point I still didn't know if he was a citizen
20 himself. I looked at the license, I did not see a
21 picture of him or a birth certificate.

22 Q. Well, most licenses don't have a picture on them, do
23 they?

1 THE COURT: All right. I grant you that these
2 people have to come in here on a
3 quota, but all of a sudden I have
4 all kinds of cases involving attempts
5 allegedly to import Jamaicans and
6 others into this country. I wasn't
7 aware that this country was so
8 prosperous presently and for the
9 last year or two that people wanted
10 to come here. Do you know anything
11 about that?

12 THE WITNESS: Yes, sir. There is approximately
13 five million aliens in the country
14 here now illegally. That is an
15 educated guess, approximately five
16 million in the United States.

17 MR. NAPIER: May I proceed, your Honor?

18 THE COURT: All right.

19 BY MR. NAPIER:

20 Q. Mr. Fernan, I have shown you what purports to be an
21 operator's license, is that correct?

22 A. Yes, sir.

23 Q. Does that look like the license which was shown to

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1 you at the time that you asked Mr. Salter to produce
2 an identification?

3 A. Yes, sir, to the best of my knowledge.

4 Q. All right. Would you flip it over to the backside,
5 does it have a picture of Mr. Salter on there?

6 A. Yes, sir.

7 Q. Is that what he produced at the time?

8 A. Sir, I can't remember the picture on there.

9 Q. Well, this license begins or is effective July 19,
10 1971, is it not?

11 A. Yes, sir.

12 Q. It expires May 31, 1974, is that correct?

13 A. Yes, sir.

14 Q. You are not denying that this was the operator's
15 license that he showed you, are you?

16 A. No, sir, he produced a license.

17 Q. You are not denying the picture was on the reverse
18 side?

19 A. I'm not denying it, I just don't remember.

20 Q. All right. This is a chauffeur's license, is it not?

21 A. Yes, sir.

22 MR. NAPIER: I believe that is all I have, your
23 Honor.

1 citizenship papers --

2 A. Yes, sir.

3 Q. -- or baptismal certificates?

4 A. Yes, sir.

5 Q. So that when you ask a person to identify himself,
6 in most instances they produce a license, do they
7 not?

8 A. A license or a sheriff's ID.

9 Q. All right. He produced a license, that product or
10 work product that most people produce, isn't it?

11 A. Possibly most of the time.

12 Q. And you did not -- did you frisk him, by the way?

13 A. Yes, sir, I did.

14 Q. When did that take place?

15 THE COURT: Is there anything going to be offered
16 from the frisk?

17 MR. WAGNER: No, there is not, your Honor.

18 THE COURT: But you want to know if they frisked
19 him on the theory he was under arrest?

20 MR. NAPIER: Yes, your Honor.

21 THE WITNESS: Yes, I did frisk him.

22 BY MR. NAPIER:

23 Q. But you frisked him while the other officer, Mr.

1 Chandler, was off with the two women, is that correct?

2 A. Yes.

3 Q. You still hadn't arrested him?

4 A. No, sir.

5 Q. Did he produce anything else that helped identify
6 him?

7 A. There were pieces of paper that he had with telephone
8 numbers. I can't remember anything else at this
9 point with his name on it or --

10 Q. Did you give the pieces of paper back to him?

11 A. Yes.

12 MR. NAPIER: That is all I have.

13 BY MR. WAGNER:

14 Q. Mr. Fernan, in your experience as a Border Patrol
15 agent, dealing with aliens in this country, have
16 you had occasion for people you have stopped to
17 question to give you other forms of identification,
18 such as passports, visas, et cetera?

19 A. Yes, baptismal certificates, passports.

20 Q. You have received such documents in response to a
21 request for identification, is that correct?

22 A. Yes.

23 MR. WAGNER: I have no further questions.

1 PROCEEDINGS: January 31, 1975, 10:10 a.m.

2 APPEARANCES: As before noted.

3 (Defendant present.)

4 (Jury present.)

5
6 THE COURT: Good morning ladies and gentlemen.

7 It is now my task to try to inform you on
8 the law which applies to this case just
9 as carefully as I can and it is your
10 job to accept the law as I charge it to
11 you and apply it to the facts which you
12 must find in this case and from that mix
13 come to a unanimous decision.

14 Your vote of guilty here must be
15 by unanimous vote if that is your verdict.
16 You should take up each count separately
17 and vote separately on each count.

18 To aid you in your deliberation, I
19 will send to you, in the jury room, the
20 indictment and I want to remind you again
21 that in sending the indictment to you
22 you must keep in mind that the indictment
23 is an aid only. It is a help to keeping
24 score. It is not to be considered in
25 any way as evidence at all of any criminal

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1 conduct on the part of the defendant in
2 this case Aaron Salter.

3 You have heard my explanation before
4 and it is most important that you make
5 up your mind in this case based only on
6 the facts you have heard here in the
7 courtroom from the witnesses and the
8 various exhibits which have been intro-
9 duced into evidence.

10 When you are in the jury room, you
11 must deliberate. That is, you must care-
12 fully evaluate the evidence given. You
13 must give your own reasoned careful views
14 of the facts and why you believe or dis-
15 believe certain witnesses. On the other
16 hand, you must listen carefully to the
17 reasoned and considered views of your
18 jurors. You are not to put forth any
19 ideas or suggestions of guilt or innocence
20 based upon sympathy or prejudice or some
21 idea of let's get this thing over with
22 or anything like that and I am sure that
23 you will not and I only say these words
24 to you out of an exercise of utmost cau-
25 tion.

1 This certainly is an important matter
2 to decide. It is important for the people
3 of the United States. It is certainly
4 important for the defendant Aaron Salter
5 and it is important for all people here
6 in the community to make sure that equal
7 justice under the law is provided to each
8 defendant who comes before this Court.
9 You, in effect, are sitting here as the
10 entire community. You are the representa-
11 tives of the community and it is your
12 solemn obligation, under the law, to try
13 to bring true justice to this particular
14 lawsuit.

15 It has been a short trial. You have
16 heard the very careful summations of both
17 sides. I will not review the facts in
18 detail. I may advert to them briefly
19 during my discussion here, but you will
20 recall our prior representation to you
21 and reminder from time to time that what-
22 ever the lawyers or I say about the facts
23 is not controlling. You are the only
24 individuals here that can make up your
25 minds on the facts and so if I refer to

1 a particular fact it is only an aid, but
2 it is your ultimate decision as to
3 whether something is so or whether it is
4 not so.

5 During the course of the trial, I
6 have had to rule on certain evidence,
7 whether it should be admissible or not
8 admissible. I did not mean by that ruling
9 one way or another to favor either side
10 of the case. It is my job to try to be
11 as neutral and as impartial as possible.
12 I know, during this trial, I have inter-
13 posed and perhaps I did too much as far
14 as questioning of witnesses, but I only
15 did that in trying to clear up certain
16 matters and perhaps I made them more
17 confusing and if I have, I apologize, but
18 it is your job not to say "Well, the Judge
19 thinks this and this". It is your respon-
20 sibility and I cannot substitute my judg-
21 ment for yours and you should not permit me
22 to do so.

23 You are not to be influenced by the
24 fact that the United States is a party.
25 Mr. Burns is standing here as a lawyer and

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1 the Government of the United States is
2 only entitled to as much consideration as
3 you would extend to any other party and
4 the fact that one of the witness here
5 was a Government agent. He should not, -
6 merely because he has a title, have any
7 head start as far as believability or
8 credibility is concerned. You are to
9 weigh and consider his testimony in the
10 same light and under the same careful
11 scrutiny that you will weigh and consider
12 the testimony of any witness in the case.

13 Any consideration of sentence, that
14 is for the Court. The law provides that
15 it is my job to undertake after you have
16 voted a verdict. Again, I remind you
17 that even now, Mr. Salter is presumed
18 innocent of the charge and he cannot be
19 found guilty until after you have care-
20 fully deliberated and you find that the
21 Government has proven its case beyond a
22 reasonable doubt.

23 In any trial, the jury or the fact-
24 finder may consider two types of evidence.
25 One is direct. That is, what did a

1 witness hear, what did a witness see a
2 person do. We usually consider that or
3 talk about that as direct evidence. The
4 other is circumstantial evidence. You
5 may find in a case facts because you
6 find that certain events have happened
7 and from that you are entitled to draw
8 reasonable deductions or reasonable
9 inferences. We do that all the time in
10 our ordinary lives and I am going to have
11 to get a different example some day, but
12 the example I use in Buffalo is the snow
13 example. That is, and I see one or two
14 of the jurors are smiling because you
15 have heard this again and again or you
16 have heard it several times anyway, but
17 again I will repeat it and it is a simple
18 example, but I think it points out the
19 caution which you must approach as far
20 as using circumstantial evidence.

21 We know here in Buffalo that if we
22 go to retire at night and the streets are
23 dry and then when we arise in the morning
24 and, let us say, we have had a good
25 night's sleep and we see snow on the

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1 ground, we can then say with firmness
2 that, in fact, it did snow overnight, but
3 if, on the other hand, we went on a
4 journey and we returned and we saw snow
5 on the ground, we would know that it
6 snowed during our absence, but we could
7 not tell the day when it snowed or the
8 hour when it snowed, so that as far as
9 treating of circumstantial evidence, you
10 must remember that you can only draw
11 reasonable inferences, inferences based
12 upon common sense. Now, in the course
13 of your consideration of circumstantial
14 evidence, if you find that it may, -
15 there are two reasonable inferences, one
16 pointing to innocence and the other point-
17 ing to guilt, you must accept the infer-
18 ence pointing to innocence.

19 In the course of your consideration
20 of all the evidence in the case, you may
21 consider direct and circumstantial evi-
22 dence and you may, if you find that the
23 defendant is guilty beyond a reasonable
24 doubt, you may bring in a verdict in, if
25 it is based on one or the other.

1 In this case, I think both lawyers
2 have indicated and I think we must agree
3 that it really turns about upon, -
4 the whole lawsuit, upon the believability
5 or credibility of the witnesses. Without
6 again summarizing the testimony on either
7 side or the other because I think Mr.
8 Burns and Mr. Napier, from their points of
9 view, have both done a very excellent job,
10 but the ladies say one thing and Mr.
11 Salter says something else. He agrees
12 with them that, in fact, he met them in
13 Toronto and that, in fact, they were at
14 his home here in Buffalo, but as far as
15 bringing them across the bridge or en-
16 couraging or inducing them to come across
17 the bridge, he and Miss Hurst and Mrs.
18 Paul are certainly in complete disagree-
19 ment. The ladies said yes, in fact, that
20 they gave him certain amounts of money
21 or there were certain amounts of money
22 which eventually came to him and that he
23 willfully assisted them to come across
24 the bridge.

25 He, on the other hand said "No, that

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1 is not so, I didn't know that they were, -
2 I had no conversation with them about
3 coming to America. I knew that they were
4 going to come here, but I had nothing to
5 do with trying to come to come. I didn't
6 know that they were not citizens of the
7 United States. It never entered my mind",
8 and so, as you see, we have a complete
9 split and it is up to you ladies and
10 gentlemen, from all of the evidence in
11 the case, to make up your mind about where
12 the truth lies.

13 In doing that, you certainly can take
14 into consideration the same common sense
15 which you apply in determining the truth
16 in important matters which come into your
17 responsibility in your everyday life.
18 You can take into account the circumstances
19 under which each witness testified and
20 all of the other testimony in the case
21 which may either support their story or
22 contradict their story.

23 You can take into account any bias
24 or prejudice demonstrated by any witness,
25 and, of course, what I am saying here

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1 applies to all of the witnesses in the
2 case and in this circumstance, Mr. Salter
3 was a witness and these rules apply to
4 him as well as any other witness.

5 You should take into account not
6 only the direct testimony, but the cross
7 examination of each and every witness.
8 You can consider and you ought to consider
9 any demonstrated hope of leniency or
10 reward that any witness felt may be
11 coming to them. You may take into
12 account the witness' past reputation in
13 determining whether or not that witness
14 told the truth on the stand.

15 You should consider the witness'
16 intelligence, motive, state of mind and
17 demeanor and manner on the stand. You
18 can consider what interest the witness
19 has in the outcome of the case. Does he
20 or she has a lot to gain or little to
21 gain. You may consider anything con-
22 sciously or unconsciously which may in-
23 fluence the witness in the particular
24 testimony that they have given in this
25 lawsuit.

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1 The mere fact that the testimony
2 of a witness is inconsistent or that
3 there are discrepancies in the testimony
4 does not mean that you must reject the
5 witness' credibility. You must determine
6 whether the inconsistency or discrepancy
7 is the result of falsification, miscal-
8 culation or it is the result of innocent
9 or miscalculation or inaccurate observa-
10 tion.

11 If you find that the witness has
12 lied with respect to any material portion
13 of his or her testimony, you may disregard
14 that portion which you find to be unbe-
15 lievable, or you may, if you desire,
16 disregard the entire testimony of that
17 witness.

18 As I said to you before, we must
19 accept the law as it is written on the
20 books. I must and you must, and try to
21 apply the law to the facts to the best
22 of your ability.

23 In this case, before the Government
24 may bring in a verdict of guilty, you must
25 be convinced that they have carried their

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1 case as to each count beyond a reasonable
2 doubt. It is a basic rule in all crimin-
3 al cases that a defendant is presumed
4 innocent until proven guilty beyond a
5 reasonable doubt. That presumption of
6 innocence remains with the defendant
7 throughout the trial and continues to
8 exist until such time as each juror is
9 convinced beyond a reasonable doubt by
10 legal and competent evidence that a de-
11 fendant is guilty of the offense charged.
12 This burden rests with the Government at
13 all times. It never shifts to the defend-
14 ant. The Government must prove each
15 element of the crime charged in a particu-
16 lar count beyond a reasonable doubt.

17 You will separately weigh the evi-
18 dence as to each count in the indictment.
19 You will determine the guilt or innocence
20 of the defendant as to each count separately.

21 A reasonable doubt is a fair doubt
22 based on reason and common sense and
23 arising from the evidence. It is rarely
24 possible to prove anything to an absolute
25 certainty, but a reasonable doubt is not

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1 a vague, speculative or imaginative
2 doubt, but is such a doubt as would
3 cause prudent men to hesitate before
4 acting in matters of importance to them-
5 selves. A defendant is never to be
6 convicted on mere suspicion, conjecture
7 or surmise.

8 Since the burden is upon the prose-
9 cution to prove the accused guilty beyond
10 a reasonable doubt, a defendant has the
11 right to rely upon failure of the prose-
12 cution to establish such proof.

13 As I have said to you before, you
14 should make your judgment upon all the
15 evidence in the case, direct, cross exam-
16 ination and the exhibits entered into
17 evidence.

18 The law does not impose upon the
19 defendant the duty of producing any
20 evidence whatsoever.

21 It is your obligation before you
22 can find the defendant guilty on any
23 count, you must do it only by unanimous
24 vote.

25 As you know, there are four counts.

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1 The first two counts are similar in that
2 they charge violations of Section 1324(a)
3 (1), which makes it a violation of law
4 to bring into the United States an alien
5 and to do it knowingly and willfully.

6 The third and fourth counts are
7 directed more to, - are directed to the
8 willfully and knowingly encouraging into
9 the United States of certain aliens.

10 I have already read to you the excerpt
11 from the statute which you should keep in
12 mind and it is, to summarize this, as
13 far as the particular counts are concerned,
14 you should keep the following in mind:

15 Count 1 of the indictment charges
16 the defendant with unlawfully bringing
17 into the United States, by means of an
18 automobile, Shirley Paul, an alien not
19 lawfully entitled to enter or reside
20 within the United States. To convict the
21 defendant Aaron Salter on Count 1 of the
22 indictment, you must be satisfied upon
23 the evidence in this case beyond a reason-
24 able doubt of the following elements:

25 First, that on or about July 29,

1 1973, at the Peace Bridge at Buffalo,
2 New York, the defendant Aaron Salter
3 unlawfully brought into the United States,
4 by means of an automobile, Shirley Paul,
5 and secondly, that Shirley Paul was an
6 alien, and thirdly, that the law did not
7 entitle her to enter or reside within the
8 United States, and fourthly, that the
9 defendant did these acts knowingly and
10 willfully and with the specific intent to
11 disregard or disobey the law.

12 Count 2 of the indictment charges the
13 defendant with the same offense with
14 respect to Myrtle Hurst. That is, the
15 defendant unlawfully brought Miss Hurst
16 into the United States by means of an
17 automobile and that Miss Hurst was an
18 alien not lawfully entitled to enter or
19 reside within the United States. To find
20 the defendant guilty of Count 2 of the
21 indictment, you must be satisfied that
22 the evidence in this case establishes,
23 beyond a reasonable doubt, each of the
24 elements of the offense that I have just
25 described in Count 1, except that in

1 Count 2, it alleges that the individual
2 brought into the United States was
3 Myrtle Hurst.

4 Count 3 of the indictment charges
5 that the defendant Aaron Salter on or
6 about July 29, 1973, at the Peace Bridge,
7 at Buffalo, New York, did, willfully and
8 knowingly, encourage the entry into the
9 United States of Shirley Cecile Paul,
10 an alien not lawfully entitled to enter
11 or reside within the United States. In
12 order to find the defendant guilty of
13 Count 3 of the indictment, you must be
14 satisfied beyond a reasonable doubt of
15 the following elements:

16 Firstly, that the defendant Aaron
17 Salter on or about July 29, 1973, at the
18 Peace Bridge, at Buffalo, New York,
19 encouraged the entry into the United
20 States of Shirley Paul, and secondly, that
21 Shirley Paul was an alien. Thirdly, that
22 the law did not permit her to enter the
23 United States, enter or reside within the
24 United States, and fourthly, that the
25 defendant did these acts willfully and

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1 knowingly and with the specific intent
2 to disregard or to disobey the law.

3 Count 4 of the indictment charges
4 the defendant with the same offense as
5 I have just described in Count 3, except
6 Count 4 alleges that the alien involved
7 was Myrtle Hurst. In all other respects
8 to find the defendant guilty to Count 4,
9 you must be satisfied that the evidence
10 in the case establishes, beyond a reason-
11 able doubt, each of the elements as I
12 have described them with respect to
13 Count 3.

14 There are certain definitions which
15 you should keep in mind. First of all,
16 the term "alien" means any person not a
17 citizen or national of the United States.
18 The term "national of the United States"
19 means a person owing permanent allegiance
20 to the United States and in this respect,
21 you will remember the explanation given
22 by Mr. Tiranno of what a national is and
23 there are only very, very few people
24 around who are nationals of the United
25 States and mostly, they would be individuals

1 connected with protectorates such as the
2 Islands of Samoa or the Philippines or
3 places like that, so that our main concern
4 here is with aliens.

5 An alien is not lawfully entitled
6 to enter the United States as an immigrant
7 unless he or she presents either a valid
8 unexpired immigrant visa, an alien regis-
9 tration receipt card issued to him by the
10 United States Immigration Authorities or
11 a valid unexpired re-entry permit issued
12 to him by Immigration Authorities together
13 with an unexpired passport. In this
14 regard, you have the documents here in
15 the case. You have the testimony of the
16 various witnesses about what documents
17 they did or they did not have and you have
18 the testimony of Mr. Tiranno who explained
19 these various words of the immigration
20 service to us here.

21 The next consideration is, with
22 the exception of British Commonwealth
23 subjects who have been granted permanent
24 resident status in Canada, an alien is
25 not lawfully entitled to enter the

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1 United States as a visitor unless he or
2 she presents a valid unexpired visa and
3 an unexpired passport. An alien is
4 not lawfully entitled to reside in the
5 United States unless he or she has law-
6 fully been accorded the privilege of
7 residing permanently in the United States
8 as an immigrant and, of course, within
9 the Immigration Laws.

10 The word "encourage" as found in the
11 indictment and the statute is subject to
12 ordinary dictionary definition. It
13 means to instigate, to incite to action,
14 to give, encourage, to try, to inspire,
15 to embolden, to raise confidence, to make
16 confidence, to help put forward, to ad-
17 vise.

18 An act is done knowingly if done
19 voluntarily and intentionally and not
20 because of mistake or accident or other
21 innocent reason.

22 The purpose of adding the word
23 "knowingly" is to insure that no one
24 would be convicted for an act done by
25 mistake or accident or just sheer negli-

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1 gence or stupidity.

2 An act is done willfully if done
3 voluntarily and intentionally and with
4 the specific intent to do something the
5 law forbids. That is to say with bad
6 purpose to either disobey or to disregard
7 the law.

8 Ladies and gentlemen, in your deli-
9 beration, it helps, usually, if you will
10 name one of your number as the foreman
11 who would be the person who could report
12 your verdict when you have agreed upon
13 a unanimous verdict and you are called
14 back in to court to deliver it. At that
15 time, Mr. White will ask you if you have
16 agreed upon your verdict and then he will
17 question the foreman as to each count
18 in the indictment and depending upon your
19 unanimous vote, the foreman orally would
20 report that the verdict is either guilty
21 or not guilty as to each particular count.

22 During the course of your delibera-
23 tion, if you find it important to contact
24 the Court, you should only do it through
25 the Marshal, giving a written note to the

1 Marshal explaining your problem and he
2 will bring it up to me. You should not
3 attempt to communicate with anyone else
4 about your problems in the case. If you
5 have any question, certainly, put it to
6 the Marshal, but to no one else. If you
7 do come into court, do not report to me
8 numerically how you stand until you have
9 arrived at a unanimous verdict.

10 At this time, ladies and gentlemen,
11 I will ask you to step into the corridor
12 briefly so that I can hear the further
13 requests to charge, if there are any,
14 and any exceptions to the charge offered
15 by Mr. Burns or Mr. Napier.

16 (Jury escorted from the courtroom.)
17

18 THE COURT:

Mr. Burns.

19 MR. BURNS:

I have no exceptions, your Honor.

20 THE COURT:

Or requests?

21 MR. BURNS:

No requests.

22 THE COURT:

Mr. Napier?

23 MR. NAPIER:

I have none, your Honor.

24 THE COURT:

Either requests or exceptions?

25 MR. NAPIER:

Correct.

